

МИНИСТЕРСТВО ВЫСШЕГО И СРЕДНЕГО СПЕЦИАЛЬНОГО  
ОБРАЗОВАНИЯ РЕСПУБЛИКИ УЗБЕКИСТАН  
ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ИНСТИТУТ ВОСТОКОВЕДЕНИЯ

Эрнандо де Сото

**O t h e r   w a y**

Toshkent 2005

## Other way

The book of the leading Peruvian economist де Сото, since 1989 of the economic adviser of the President of the Peru which have begun market reforms in captured civil war, the backward and poor country, was literally best seller in 80th years. Де Сото has managed on an enormous empirical material to prove, that the reasons of poverty and backwardness of Peru - a source of mutual enmity and lawlessness - root in imperfection of laws on the property, first of all about the landed property. Legalization of a private property, де бюрократизация economy and reduction of the governmental intervention in economic activities is a unique way to the civil world and prosperity - this conclusion де Сото is especially actual for Russia.

89, Эрнандо де Сото

Эрнандо де Сото

OTHER WAY

Invisible revolution in the third world

© Translation of publishing house " Catallaxy "

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To competitive workers and the businessmen of Latin America operating in legal and shadow sectors who the efforts lay other way. And, certainly, to my friends from the left wing, I divide whose ideals, in hope, that we could agree about ways of their achievement also.

From the Peruvian publisher

This book on set of examples reproduces results of economic researches, calculations and the estimations executed by Institute of freedom and democracy (ILD).

We have decided to not include in this volume technical and statistical substantiations as they could change the purpose of the publication and .разочаровать readers, probably, not familiar with the given disciplines. But we have reserved

detailed methodology and economic calculations for the publication in two volumes. The first is named " the Technical and Statistical Resume to Other Path "(" the Technical and economic management to the book " Other way ")", and the second - " Measurement of Size of Informal Economic activities in Peru "(" Calculation of volume of informal economic activities in Peru ")".

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Эрнандо де Сото - the Peruvian businessman, was born in 1941 in a Arequipa. Has finished postgraduate study at University " Etudes Hautes " in Geneva, Switzerland. Worked as the economist in ГАТТ, operating director of one of leaders European engineering-consulting firms, director of the Central reserve bank of Peru. Now it is chairman of one of Peruvian is mountain-добыва-ющих firms, the president of Institute of freedom and democracy (ILD).

To the reader

When «Other way " became the best seller in Latin America, some commentators have noted, as the greatest merit of the given book that it has opened the mechanism of an economic underground in слаборазвитых the countries. In opinion of others, the main merit of the book in the political analysis which has changed an essence of debate about conditions of economic development, about effective democratic institutes and corresponding foreign policy in relation to the countries of " the third world ".

These reasoning show, that except for readers whom the subject of the given book in general interests, there are two more types of readers: we recommend those whom the detailed description of sources and involves functioning of underground economy, to pay attention on гл. 1, 2, 3 and 4; the same who is guided by the political offers following from this analysis, it is necessary to concentrate on гл. 1, 5, 6, 7 and 8.

This book is prepared in cooperation and at support of the International center of economic development - the noncommercial political organization (ICEG), created in 1985 for support and encouragements of researches of existing economic movements. ICEG promotes carrying out of the international discussions on the economic policy, devoted to economic development and increase of well-being of people, will organize researches, publications and conferences. Through a network connected with ICEG more than hundred institutes in fifty five countries this

organization dispatches books and the monographies, devoted to problems of the economic development, leading politicians, academicians, businessmen and journalists all over the world.

## Introduction

Economists at times tell such histories to which authors of novels would envy also. Book Эрнандо де Сото " Other way " - the best to volume an example.

This book based entirely on the Peruvian validity, opens one of aspects of a life in the countries of the third world, till now traditionally disappeared for a veil of ideological prejudices. Unlike the good fiction edifying us gradually, the book " Other way " conducts a direct and frank narration about the present and future life in the countries of the third world. Unlike штампованных economic and sociological essays about Latin America, enough abstract and not mentioning concrete layers of a society, " Other way " on a step does not deviate a real life. The author considers till now poorly studied and, it is possible to tell, poorly understood phenomenon - illegal economy - and offers a way of the decision of economic problems of developing countries. This decision considerably differs from the economic projects developed by the governments (progressive and conservative) the majority of the countries of the third world, however is - and it is the basic thesis of the given book - that decision which the poorest layers of a society in these countries already carry out in practice.

" other way " - exhaustive research of illegal economy, or the black market, to Peru containing tremendous information on its scope and complexity.

The author, however, is not limited only to ascertaining of the facts: after the description of scales and complexities of the economic activities leded in Peru around of the law, Эрнандо де Сото (by means of researchers from Institute of freedom and democracy) analyzes the reasons of social injustice and economic failures in the countries of Latin America. Depicting problems of developing countries, the author destroys many myths about the countries of the third world, translating them in the category of scientific true.

## Внезаконная экономика

The term " внезаконная экономика " designate usually such situation: the secret, not registered, illegal companies and the industrial enterprises, not paying taxes, compete, using dishonest methods, with the companies and the enterprises respecting the law and in due time paying all taxes. Businessmen of the black market are the pirates covering from treasury of means who could be used for the decision social проблем and strengthenings of the structure of a society. Such type of thinking as proves Эрнандо де Сото, is absolutely erroneous. In the countries, similar Perus, a problem is not the black market, and the state.

**Внезаконная экономика является спонтанной и творческой реакцией людей на неспособность государства удовлетворить базовые потребности беднейших слоев населения. Парадокс в том, что данное исследование, проведенное институтом, защищающим экономическую свободу, содержит непревзойденную по силе и жесткости критику в адрес правительств третьего мира и в то же время демонстрирует бессмысленность радикального марксистского критерия экономической отсталости развивающихся стран.**

**Когда законность является привилегией тех, кто обладает политической и экономической властью, беднейшие люди исключены из этой категории и не имеют иного выбора, кроме как жить по законам джунглей. Именно поэтому внезаконная экономика приобретает силу, и Эрнандо де Сото доказывает это с помощью неопровержимых фактов. В ходе своего исследования он обнаружил, что так называемая "цена законности" в Перу, Институт свободы и демократии создал фиктивную фабрику по пошиву одежды, и затем прошел все процедуры бюрократического лабиринта, чтобы официально зарегистрировать ее. Участники эксперимента решили не давать никаких взяток, и процесс не мог остановиться.**

**За это время вымогали взятки в десяти случаях, но экспериментаторы заплатили всего дважды. Для регистрации фиктивной фабрики потребовалось 289 дней тяжелой работы специально созданной группы и расходы в сумме 1231 доллар (с учетом затрат и потерянных доходов). В то время - 1983 - такая сумма была эквивалентна 32 минимальным месячным зарплатам. Все это означает, что процесс законной регистрации мелких промышленных предприятий чрезвычайно дорого обходится для людей с небольшими средствами. Не случайно именно такого рода люди создают "незаконные" предприятия в Перу.**

**Для беднейших даже легальное открытие магазина - дорогостоящая и трудоемкая проблема, легальное получение жилья - проблема чрезвычайно дорогая и сложная.**

**Институт выяснил, что если группа семей с низким доходом обратится к власти за выделением свободной территории для строительства, то для выполнения всех необходимых формальностей потребуется шесть лет и одиннадцать месяцев переписки между министерствами и муниципальными органами. Расходы составят примерно 2156 долларов (56 минимальных месячных зарплат в то время) на одного человека. Даже получение лицензии на торговлю в уличном киоске или на продажу с рук карriages сравнимо с ужасом из романов Кафки: сорок три дня хлопот от чиновника к чиновнику. Таким образом, расходы составят 590,56 долларов (15 минимальных месячных зарплат).**

**Статистические данные, полученные в ходе исследования, ужасны. Они безжалостно и логично подтверждают аналитические выводы сотрудников института. Судьба страны, отраженная в этих цифрах, трагична и абсурдна: она трагична, потому что законная система, которая создается для обслуживания тех, кто не имеет власти, и поэтому она вполне хороша, и угнетение других ее участниками.**

transformation into constant derelicts of a society. It is absurd because the system of such type dooms itself on слаборазвитость. It will never progress, its destiny - slowly тонуть, choking in own inefficiency and corruption.

A description of sources containing in the book and scope of lawlessness in the countries of the third world frankly enough and ruthlessly, however it does not demoralize the reader and does not plunge it into scepticism concerning an opportunity of the decision of described problems. The illegal economy - parallel and in many respects more reasonable, productive and giving to a society is more, than that, that ханжески calls herself lawful, - appears on these pages as a certain way of flight from a low level of development. Many victims слаборазвитости began to use already advantages of illegal economy, revolutionizing that a national economy. Занятно, that the majority writing and theorizing about backwardness and injustice of a life in the countries of the third world, similar, at all do not suspect about existence of all of it.

Across all Latin America weights of poor men migrate from rural areas in cities. When the poor men driven from the places by a drought, flooding, overpopulation, decline of an agriculture, get in cities, they find out before themselves the closed door. They do not have either money, or technical skills. They do not have hope to receive the credit, there are no chances of the insurance, they cannot count on protection of police or judicial authorities. Threat to their business goes from everywhere. Everything, that they have, is a will, imagination and desire to work.

Judging only on four branches investigated by Institute of freedom and democracy, - to trade, industrial production, housing construction and transport - business at these businessmen go not bad. Anyway, they operate incomparably more productively, than the state.

The statistical data containing in this book, shake. In one only the black market (including manufacture) 439 thousand person gives Lima work. From 331 markets in city 274 (83 %) have been constructed нелегалами. Without exaggeration it is possible to tell, what exactly owing to them inhabitants of Lima can freely move on city for they possess 95 % of public transport.

Теневики have enclosed more than 1 billion dollars in purchase and service of vehicles. Data about housing construction impress not less.

Half of population of Lima lives in the houses erected теневиками. During with 1960 on 1984 the state has constructed cheap habitation for the sum 173,6 million dollars During the same period теневики have constructed habitation for the fantastic sum: 8319,8 million dollars (that in 47 times more spent by the state). Economic freedom existed only on a paper while our poor men did not begin to realize it.

**These figures eloquently speak about that creative energy which the restrictive legislation has inhaled in the black market. However this energy also reflects true nature of the states of the third world which almost always карикатурно is deformed. Эрнандо де Сото mentions facts, into smithereens breaking myths.**

### **Low level of development and mercantilism**

The statement concerns to the most widespread myths about Latin America, that its backwardness is consequence of erroneous philosophy of the economic liberalism incorporated in a basis of the majority of constitutions after we independence of Spain and Portugal have reached. This openness of economy to market forces ostensibly does by its easy extraction of greedy imperialists and aggravates an inequality between rich and poor. Our societies became economically dependent (and unfair) as we have chosen an economic principle non-interference.

Эрнандо де Сото denies these false representations. The main thesis of Institute that in Peru never was market economy, and that just now, in connection with occurrence of the black market, it though and in the given form, but has started to be created. This concept can use all Latin America and, possibly, to the majority of the countries of the third world. The principle of economic freedom proclaimed in our constitutions is no more real, than a principle of freedom political to which political leaders, especially - dictators, traditionally render tribute hypocrisies. Де Сото calls our economic system which for many years pretended to be market - mercantilist.

The term puzzles, as in it the historical period, economic school and a character trait of the author is obviously reflected. In this case "mercantilism" means бюрократизированное and the state neglecting with laws which considers redistribution of national riches by more important, than manufacture of these riches. The term "redistribution" here is a granting exclusive privileges or a favorable mode to a narrow circle of elite which depends on the state and on which the state in turn depends.

In our world the state never expressed will of people. The state is those, what government which has appeared at authority - liberal or conservative, democratic or tyrannical, and the government usually operates according to mercantilist model. It means, that it passes laws in favour of small groups with special interests (in research they are called " перераспределительными as syndicates ") and infringes upon interests of the majority having tiny authority or the symbolical rights. Names of exclusive persons or families change with each new government, but the system remains constant: it not only concentrates national riches in hands of minority, but also will legalize its rights to these riches.

"System" includes not only the monster mentioned by me - the government, but also the businessmen operating within the limits of the law. The book contains the uncompromising criticism of this class of businessmen which, does not aspire to

dynamical system of equal opportunities where the law guarantees freedom of a competition and remunerates creative activity, and has adapted to mercantilist system and makes all efforts for reception of exclusive privileges. Such people continue to consider industrial activity *синекурой*, instead of by to well-being, even now when the comfortable life which was created with generations of people of their class falls into decay.

This system not only is immoral, but also inefficient. In its frameworks the success depends not on an ingenuity and diligence, but from skill of the businessman to secure with sympathies and support of the president, ministers and other functionaries (that usually means skill them to bribe). In chapter 5, concerning costs of legal and shadow activity, Эрнандо де Сото shows, that for the majority of businessmen of sphere of lawful business the largest clause of charges - time and money - are bureaucratic intrigues. And it cuts an economic life under the root.

The system representing, finally, the property of a vicious circle of those who receives from it advantage, brings to nothing any attempts to encourage manufacture of new riches and prefers simple reproduction of constantly thawing capital. In the given context only unproductive parasitic activity of ours *слоноподобной* bureaucracy invariable extends. To justify own existence, these monsters have got such, for example, the order: for registration of small factory it is necessary for citizen to battle within ten months to eleven ministries and municipal departments and that business did not stop, to give a bribe at least to two officials. Whether it is possible after that to be surprised technical backwardness and noncompetitiveness of the majority of the enterprises in the countries of the third world?

In same the mercantilist system is a high time, dooming a society on an economic impotence and stagnation, creates such attitudes between citizens and also between citizens and the state which reduce or completely liquidate an opportunity of carrying out of democratic policy. The mercantilism as shows Эрнандо де Сото, is based on laws which are only a parody to elementary democratic orders.

### **In mess of laws**

Speak, that number of laws and decrees - decrees, ministerial resolutions, procedural rules - exceeds in Peru *полмиллиона*. It only a rough estimate as their exact number anybody to define not in a condition. We live in a legislative labyrinth in which would disappear and *Дедал*. The laws which are made multiple copies similarly to cancer cells are result of fantastic ethics of our authorities. Laws are established in interests of special groups, ignoring a society as a whole. Logic consequence of such unlimited multiplication of laws appears that on each law there is another, correcting, specifying or denying the first. Differently, everyone got in a bog of inconsistent laws, wants it that or not, during any moment necessarily is the infringer. In the same conditions any purposeful infringer of the law can justify the actions by other law.

Who publishes these legal documents? The research lead Эрнандо де Сото, shows, that only scanty number of our laws - no more than 1 % - is published by that body which specially is intended for this purpose - by parliament. The others of 99 % - a fruit of activity of executors. Laws go from the governmental offices where they invent, push and publish without handicaps, without debate, without criticism and is frequent even without the slightest representation about those whom they will concern. Bills, выносимые on consideration of parliament, are discussed openly so mass media can inform on them to the public, and those to whom these laws will benefit or harm, can, possibly to affect their final wording.

However to the majority of our laws such does not occur. They bake on bureaucratic kitchens (or in private apartments of some lawyers) according to instructions перераспределительных syndicates which interests are served. These documents are published so, that not only ordinary citizens, but also lawyers not in a condition to follow them and to react in appropriate way.

When the state of the third world comes back to democracy, it spends more or less fair elections and gives freedom of a press. The political life gets the certain form and proceeds without excessive obstacles. However behind this facade of a legislative and economic life the democratic practice obviously is absent. The reality behind a facade represents discrimination элитаристскую system over which least of minority dominates.

The black market is reaction of weights to system which traditionally put them in position of victims some kind of legal and economic апартеида. The system invents the laws doing impracticable natural aspirations of people to have work and a roof above a head. What remains to weights? To cease to execute laws which generally are unrealizable and unfair? No. They simply reject the law. Also leave on streets to sell that can, get own shops and build houses on slopes of hills or on free plots of land. There, where there is no work, they invent work, being trained in affairs about which the majority till that time had no also concept. They turn the lacks into advantages, the ignorance in wisdom. In the politician they operate pragmatically: turn a back to поверженным to idols and put to the vehicle any rising star. In Peru they have turned away from general Odria when that was at authority, from Прадо when that of rules, have adjoined to Белонде when it managed business, and strong supported Веласко when this general was their leader. Today they - simultaneously - марксисты led by mayor Barrantesom and followers of a national-revolutionary American alliance led by President Alan Garcia.

Book Эрнандо де Сото with all clearness shows, what they actually - these men and women, which almost inhuman efforts and without the slightest help (and actually at the open animosities) from legitimate authorities have learned to create workplaces and riches there where there was powerless an allmighty state. They often showed more initiatives, diligence, imagination and care of the country, than their

competitors operating under covering of laws. Owing to them the criminality and unemployment is no more, than they are now. Owing to them the number of hungry beggars in streets is no more, than today. Our social problems are huge; however without ours **ТЕНЕВИКОВ** position would be immeasurably worse.

But especially we should them be grateful that they have shown us a practical and effective way of struggle against failures. This way is opposite to what is preached by ideologists of the third world, with enviable persistence clinging for the decayed doctrines. The way of the black market - poor is not strengthening and an eminence of the state, and, on the contrary, radical reduction and reduction of number of its functions. They do not wish the scheduled, regulated collectivization under supervision of the monolithic government; they choose the individual, private initiative and business more likely to have an opportunity to struggle against backwardness and poverty.

If to listen, that inhabitants of slums speak us the affairs, we shall not hear anything that revolutionaries from the countries of the third world from their name - propagandize violent revolution, the state control over economy. The only thing, that we shall find out are a desire of a genuine democracy and present freedom. These ideas are protected convincingly **Эрнандо де Сото** in the book with «Other way ". The concept of freedom in its all senses never seriously was applied to our countries. Only now, rather unexpected image, through spontaneous actions of poor men, this concept has started to be materialized and show that it is more thin and effective tool of overcoming of backwardness, than what our conservatives and **прогрессисты** use. Extremists of any sense, at all ideological distinctions, are ready to strengthen the state and to continue a policy economic **интервенционизма**, the unique result of that appears preservation of corruption, incompetence and **кумовства** - this incessant nightmare of all third world.

### **Freedom as alternative**

Possibly, many will be surprised by that poor men in the struggle against elite can choose the purpose - freedom. One of the widespread truisms of modern Latin American history consists that liberal democratic ideas accompany military dictatorships. Whether these ideas were put into practice by «the Chicago boys " in Chile at **Пиночете** and in Argentina when **Martinez де Хос** there corrected? Catastrophic results of this activity to us now well-known. Whether these politicians have made rich the richman and poor is poorer in both countries? Whether they have cast both countries into a chasm of unknown disasters from which these countries till now have not recovered?

There is only one kind of freedom, and it is obviously incompatible with authoritative and totalitarian modes. Economic liberalism which they bring with themselves, to be exact - spread from above, it will be always relative and **отягощен**

additional restriction of a political freedom - as in Chile and in Argentina. But the political freedom allows estimating, improving or correcting the new methods which are not working on an expert. Economic freedom is an integral part of a political freedom, and only when both parts are connected, as both parties of a coin, they find effectiveness.

No dictatorship can be truly liberal as the basic principle of economic liberalism says: not the political authority, and the independent and sovereign citizens, having the right to operate - to work and test deprivations - should solve, in what society of type they wish to live. The political authority should guarantee only observance of game rules by all that the choice of a way of actions was fair and free. It demands a consensus, support of people, wishing realization of such principles, and can be realized only in conditions of democracy.

Within the limits of liberalism there are extremist tendencies and dogmatic approaches. Their spokesmen usually are those who have refused to change the ideas when they have not sustained check by means of a litmus piece of paper of all political programs - a reality. It is natural, that in the countries of the third world with their sharp economic inequality, absence of cultural communications and huge social problems the state carries out перераспределительные functions. The situation in the majority of the countries of Latin America is those. Only when economic, social and cultural distinctions will be reduced up to comprehensible borders, we can speak about truly fair, identical to all game rules. At an inequality existing today - between poor and rich, the townspeople and peasants, Indians and those who lives by the western traditions, - the best conceivable measures will lead in practice to creation of privileges and advantages to minority and violation of the rights and interests of the majority.

For the state it is enough to remember: before it can distribute national riches, the nation should make it. And for this purpose it is necessary, that actions of the state did not interfere with actions of its citizens which finally know is better that they want and that should do. The state is obliged to return to the citizens the right to put to itself creative and creative problems. Its problem - to be limited to actions in those necessary areas where the private industry cannot operate. It does not mean that the state should отмереть.

As shows experience of the majority of the countries of Latin America, the big government yet is not an attribute of the strong state. These monstrous monsters who in our countries exhaust productive energy of societies for maintenance of own fruitless existence, in practice appear colossuses on clay legs. Their giantism does their vulnerable, and the inefficiency deprives with respect and authority. In such atmosphere any institute of the state cannot normally function.

«Other way " does not idealize the black market. On the contrary, having shown its advantages, де Сото does not forget also restriction which the life beyond

the framework of the law imposes on the illegal enterprises: they cannot grow, cannot conduct forward planning, are vulnerable for robbers and racketeers, are subject to any shocks and crises. In the book the aspiration to legalization which is found out in many actions *теневи́ков* is shown: the street dealer dreams to receive a booth in the market, owners of illegally constructed houses immediately start to improve sanitary and a conditions of life as soon as find the legitimate right for the dwellings. The given research does not exaggerate and does not overestimate an opportunity of shadow economy, but helps to make some representation about spirit and an image of an idea *теневи́ков*. It shows, that could be expected, if all this productive energy lawful by went on practical business in originally market economy. And if the government did not suppress, and protected and stimulated *теневи́ков*.

Having named this book " Other way ", Эрнандо де Сото has challenged to movement " Сендеро луминосо ", arisen in the Andes in 80th years and proclaimed with the purpose construction of a Utopia маоистского the sample. It opposes this program with the social project which, completely denying fundamental positions of the марксистско-lenin theory, demands not less radical reorganization of a society. It assumes revival of old traditions which because of inertness, greed and blindnesses of political elite have been superseded by institutes, orders and traditions of an official society. However revolution which analyzes and defends the author in the given research, at all is not utopian. It already comes, it is carried out with the victims of the present system which risen with dream of work and a roof above a head and have opened during this revolt all of advantage of freedom.

*Маруо Варгас Льоса*

### **Other way**

" peruvian economist Ernando де Сото has helped us to understand one of the phenomena of economic. Not from official statistics, and observing a life in streets of Lima, it has found out, that poor men in Latin America, never read Jefferson or Adam Smith, have established the democratic order outside of legal economy and have organized the private parallel facilities on principles of free noncontrollable activity. The greatest merit де Сото that it has specified on seeming obvious circumstances: people everywhere want the same. When the government does not interfere, people everywhere will organize the life in the identical image. In the recipe де Сото the clear and promising alternative of economic stagnation in Latin America and other countries of the world contains. The governments should let in " illegal " workers a normal economic life and depart aside, having enabled расцвести to individual business. "

*President Georges Bush.*

**From speech at annual session of World bank and the International  
currency fund.**

**On September, 27th, 1989**

" " other way " - significant achievement. This book should stir up the Latin American governments and to become the guidebook for those who would like to help poorest of poor. This surprising book in detail tells about how groups of poor men grasp the grounds and try to legalize the houses constructed by them as the elementary ground register as services in внезаконном sector of passenger transportations are planned and will be organized is developed and as dealers racing all over again grasp sites of streets for the booths, and then create own markets. "

*The economist*

" Эрнандо де Сото it is free from fruitless ideological confrontation. Its exact estimations leave far for frameworks of the Peruvian validity and get universal value.

" other way " is a new, original and fundamental work which should be studied to everyone who bears the responsibility for a political, economic and cultural life in developing countries and trusts, that they become developed. "

*Jean Francois Revel*

*" the important event... It is success... With an output of the book hot discussions about the revolutionary means offered in it have begun. "*

*Zbignev Bzhezinsky,*

former director of Advice on national safety

" for the Latin American Catholics the following argument today can be important: in opposition Густаво (Гутьеррес, " Theology of clearing ") and Эрнандо (де Сото, " Other way ")... Эрнандо protects poor men... Also acts with revolutionary criticism of elite, both right, and left. "

*Michel Novak,*

*the theologian and the writer*

*" from the depth of this extremely uncertain world sounds призывный a voice of economist Ernando de Como, whose book " Other way " is a turning point in research of extraordinary enterprise dynamism of the Peruvian underground economy. "*

*Richard of M Nixon, 1989*

*" this book sheds new light a reality not only the Peruvian life, but also a life of all latin America and other countries. "*

*Thomas Hju*

## **The foreword**

From the moment of publication in 1989 the book " Other way " became the best seller all over again in Latin America, and after translation into English language and in the United States. But if the book also has made any influence, it is more likely measured not by a sales volume; it is more important, that and the subsequent researches lead by my colleagues and me in Institute of freedom and democracy, similar, have forced the governments, government agencies, political and social movements in the countries of the third world - from the Central Africa up to Philippines, in Southern Africa and even in the USA - seriously to reflect on a choice of the best way of economic development.

Such reaction was so unexpected, however and flatter. By responses in press, the best explanation of success of the book the history told in it, переключается with experience of many other things of the states though in the center of a narration there is Peru consists that. Similar, " Other way " gives a bright example of the analysis of the events occurring in many countries of the third world.

In our approach care about poor and cares of poor men are connected to aspiration to create a modern democratic society and market economy. At the same time, in the book a certain general platform on which could be united both left, and right is outlined. Those who adheres to the right sights, we bring to an idea, that it is not enough only one free markets. Liberalization should be accompanied by creation of modern political and legal institutes if there is an aspiration to steady economic growth to which social justice would accompany. As equal in rights participants of this process, poor should receive not simply benefits from economic growth, sufficing falling крохи but to be engines of this growth. For left the set example has opposite sense. Capitalism at all does not assume preservation of poverty; left should care more about реформации the legal institutes representing plot in the name of perpetuating of an inequality.

As push to a writing of the book the researches lead by my colleagues and me, and requirements of a social class which exists almost in all developing countries and which the official statistics prefers to not take in calculation have served. Our research, however, has documentary fixed energy and the importance of this class. This class operates in shadow sector which workers are tired out in a ghetto of programs of the social help and simply deprived an opportunity to participate in social transformation of the countries. Unlike other definitions of shadow economy (= illegal, внезаконной, underground, the black market), allocating, for example, the sizes of the enterprise or practice of evasion from taxes, the Institute of freedom and democracy addresses to the reasons of the phenomenon. We define shadow economy as a shelter for for whom costs of observance of existing laws at conducting usual economic activities exceed benefits from achievement of the purposes. Except for the activity undertaken entirely beyond the framework of the law, the concept "shadow

economy" covers also for whom the state has opened opportunities of legalization, but without the accepted benefits and protection which the law distributes to really lawful activity. In all cases, however, the given concept characterizes not the enterprises, and more likely институциональные frameworks which define borders внезаконной economic activities.

Researches of Institute show, that shadow activity at all a synonym of chaos and anarchy as believe many. On the contrary, at теневиков there are clear and certain interests, their life is organized by laws which they have spontaneously developed instead of absent state. In this sense until the black market is a symptom институционального crisis with which the poor countries collide, lawmaking in underground economy - a potential source of many decisions necessary for an output from this crisis.

" other way ", however, is not limited to research only this sector. We have paid the big attention теневикам and have given the detailed description of their activity in the first part (see " the Word to the reader ") as this class shows the most visible symptom of inferiority of laws and institutes in developing countries in relation to needs of their citizens. In the countries of the third world legal institutes - in a greater degree not the tool of development of a society, and a basic obstacle to such development. The characteristic of this obstacle and reforming defective an establishment, laying in its basis, - an overall objective of the given work.

Second half of book is devoted to demonstration of that the governments of Peru and many other things of the poor countries were completely antidemocratic, created laws behind the closed doors and reacted only on interests of separate groups, without taking into account needs and aspirations of the majority of the population. Even when this majority lives in the countries where elections are spent, democracy is reduced only to an opportunity to vote everyone some years for this or that political candidate, giving the winner carte blanche for the period of action of its powers. In the given book such modes refer to "mercantilist" to identify them with political system which the Europe has refused enough for a long time, and to distinguish them from modern market democracies.

Second half of book contains recommendations how to dismantle the mercantilist device. A source and a basis of these offers was spontaneous lawmaking the black market, however offers in many respects coincide with legal institutes which in the developed countries provide creation of national riches. These offers are directed on creation of a basis of productive and effective economic activities for those groups, whose economic progress suppressed with the existing vicious legislation. Finally, вышесказанные offers are traffic signs, following which the countries of the third world can find own way of development.

The reforms described in the book " Other way ", essentially differ from the policy spent left and right in the countries of Latin America. As it was already marked

to bypass usual disagreements about ways of development between these two traditional poles we have tried to reject a number of prejudices about the poor majority in developing countries. The recommendations stated in the book challenge to the majority of the most popular ideological and political theories served (with small success) for an explanation of the reason of poverty and poverty in Asia, Africa and Latin America. The book does not put the purposes which have caused birth of these theories under doubt: elimination of poverty, achievement of validity and economic growth. The aspiration to these purposes is organic for all offers of the given book. Actually we strike on sights dominated hitherto at development; True democracy with wide participation of citizens, liquidation of poverty, economic growth within the limits of institutes of the market do not contradict each other and cannot be the alternative purposes of development.

The call is thrown first of all to a policy and concepts within the limits of whom right traditionally predominated over many countries of the third world. We show, that the order which these governments tried to keep, corresponds not to modern market economy as their foreign supporters sincerely trust, and to the dug round mercantilist modes. When these conservative governments strive on favour of the West, they undertake reasonable macroeconomic measures, but leave firm the discrimination legal establishments destroying that positive influence which such policy could render on economic growth and decrease in a level of poverty. Instead of it the policy of protection interests of separate groups and neglects interests of other part of a society, and especially - poor, not having an opportunity to negotiate with political establishment proceeds.

Directly or indirectly, the governments of the countries of the third world - from left up to right - recognize that discrimination intervention of the state in economy inevitably owing to specific properties of culture of the nations which they operate. Conclusions of the book challenge those who the statement, that the Latin American culture, in particular traditions of Indians and metises, is incompatible with spirit of business, democracy and with economic systems of states of the world more developed economically. Contrary to this prejudice, results of researches of Institute of freedom and democracy show, that теневики realize and support a mode of a private property by means of developed by them внезаконных norms, and that these norms suppose a healthy competition in which treaty obligations are observed. Authors of research have found out also, that as opposed to official political institutes the shadow organizations not only select the leaders, but also provide their responsibility before voters.

" other way " throws also a serious call to traditional opinions left though the concept of the book in many respects coincides with ideas left and with those from early либертарианцев who else up to Marx has realized importance of the class analysis. Various Marxist currents are approved, that by social structure of Peru, as

well as all capitalist economic systems, opposes with owners of means of production (bourgeoisie) - to deprived workers (proletariat). The facts opened by us testify, that concern in polarization of a society to class attributes is enough обоснованна. At the same time, these facts destroy the picture of the class conflict represented by the marxist literature. As the industrial working class is not dominating in Peru and as in this country there is not modern market, and scope a mercantilist economy, there is no sense to speak about proletariat and bourgeoisie.

The work done by Institute, shows, that polarization. From which Peru really suffers, divides a society into those who has an opportunity to operate within the limits of legal an establishment, and those who should work behind their limits. Unlike marxist definition of a class in which horizontal barriers differentiate the bourgeoisie which is being above, and proletariat below, " Other way " gives институциональную the concept according to which there are vertical barriers. They separate those who use protection of the state, from the majority of the competitors suppressed by imperfect legislative system.

Precisely having defined classes, the Institute could benefit by the class analysis and has precisely defined who is interested in strengthening the property rights in Peru and in narrowing functions of the state administration. A support of these programs did not become poor or rich, proletariat or bourgeoisie. More likely, support has come from the majority of the population for which lawful activity has appeared it is too expensive to use the rules established by the state and the laws defining the property rights owing to almost full impossibility. The overwhelming part of this majority works in shadow economy. The class analysis allows опознать in the black market force which is interested in transition to modern market economy.

The book challenges opinion (the truth, dividing concern), that the global capitalist economy personifies the international division of labour which is structurally focused against interests of developing countries and keeps them in eternal dependence on the countries of the first world. Supporters of the theory of dependence approve, that deterioration of conditions of trade for developing countries, growth .влияния the transnational companies, shown in monopolizations of technologies, confirm this conclusion. They consider, that participation слаборазвитых the countries in economic conducts only to an inequality and one-sided development.

In the book it is not denied, that the developed countries could maintain resources of the countries of the third world without granting adequate indemnification. It, however, gives the sufficient bases to suspect, that developing countries, owing to ущербности legal institutes - support of machinery of state and economic regulation, have started up on a wind of an opportunity of economic growth: and what depend only on internal resources, and what required cooperation with the world market. This wastefulness, apparently, is poorly connected with

attitudes between the certain country and economic. Moreover, dependences much of symptoms which theorists specify вышеупомянутые, it is necessary to charge, at least partly, it is moral to defective legal institutes of the countries of the third world.

Force of the theory of dependence that it realizes intensity of the nationalism peculiar to all countries, and in particular belonging the third world. The accented nationalism in developing countries can mean, that their governments are not capable to reach легитимизации by corresponding legal an establishment, and the nationalism appears for them last means of struggle for legitimacy. However the nationalism is not doomed to were a source of animosities. Allocating the external reasons of a low level of development, authors of the theory of dependence have not paid attention to the basic problem of Peru: mercantilism and corresponding inability of legal institutes adequately to react to external and internal problems. It is amusing, that such inattention often helped меркантилистам to support just those inadequate legal institutes which are favourable it, but are unsuitable for the decision of problems of the country. " Other way " offers other version of nationalism, in which basis comprehension of high potential институционального the creativity already shown by the black market. Conducted such - more positive - nationalism, the country can not refuse advantages which are promised with interaction with other countries. Similarly to the marxist theory and the theory of dependence, the theology of clearing is deep reaction to poverty and social injustice. Many of followers of theology of clearing have accepted the programs implanted in the theory of marxism and the theory of dependence, as a way to an output from an economic crisis. They supplement positions of these theories by the moral justification of revolts and revolts by which in practice such decisions are accompanied. Once again we shall repeat, the social concern expressed by defenders of theology of clearing, not only is true, but also extremely urgent. However the best methods of resolution of problems of poverty and injustice are what result directly from real experience of poor men, consider obstacles with which those collide, and institutes which it does not get. The institute has studied experience of Peru and has found out, that liquidation of a class of businessmen is not what wished by poor men. It is necessary for them, that the state has eliminated the obstacles, stirring to their enterprise efforts. Partly " Other way " supports theology of clearing, offering a way of the coordination of ideals of a fair society with legitimate claims of separate people for independence and the initiative.

As follows from this review, we sweep aside distinctions traditional for the third world between the left and right concepts as we consider, that they are useless in conditions институционального the crisis menacing to developing countries. At least in Peru, both of the approach invariable strengthen the mercantilist order. Right are true to mercantilism to serve interests of the certain business groups. Left it seems, that it is beneficial for poor. Both groups directly interfere with an economic life, but any of them does not eliminate the obstacles, closing to poor men access to benefits

and advantages high-grade legislative an establishment, and does not do appreciable efforts to emphasize a paramount role of these institutes. As a result, even when left both right carry out a worthy and noble policy, all of them equally do not solve the problems interfering economic development. They are not capable to prevent the violence caused by growing break between those who exploits unsuitable legal institutes, and those who not only cannot use them, but at all has no to them access. Operating mercantilist system, left and right are borrowed only by redistribution of existing national riches. We have come to conclusion, as left and right should create институциональные the frameworks favorable for accumulation of riches, and only then to address to favourite them to variants of policy.

We have received deep satisfaction, observing as the understanding of correctness of this conclusion starts to be shown. Editorial articles of newspapers " New York таймс " and " Уолл-стрит джорнал ", as well as other newspapers, have noted, that the book " Other way " changes representation about the reasonable approach to economic development. Some recommendations of the book are considered in the Senate of the USA and in the basic agencies of the help слаборазвитым to the countries. Alain Wood, director of the American management of the international development, wrote in introduction to the review of the basic directions of policy, that the given research "... Probably, contains a key to maintenance of steady development even in the most backward countries ". Simultaneously mail from the countries of the third world brings to us encouraging that certificate, that economists-researchers everywhere have already created or create the institutes similar to Institute of freedom and democracy to put in pawn a basis for институциональных reforms in these countries. Nevertheless, influence of a paradigm " институциональные structures - classes " on a policy of development can and should go deep. The negotiations directed on the sanction of crisis of external debts, approach институциональные reforms through the programs described as the structural adaptation. The structural adaptation, however, not the same, that институциональные reforms; without such reforms political changes will come to the end with occurrence of all external attributes of the free market, but at absence of legal institutes, which unique can provide a political and social acceptability of economically reasonable policy.

The foreign help only in rare cases happens is directed on институциональные reforms. But even in these rare cases of reform are reduced only to updating structures of bureaucracy or to more effective planning programs of the help. To reach fundamental and steady changes, the foreign help should be directed on creation and strengthening of the legal institutes providing the accountability of the governments to people, обязывающих them to inform the public and creating such environment in which the property rights are precisely certain and protected. Only under these conditions economic growth will be steady.

Greater satisfaction, than from influence of our work abroad, we have received that the Institute of freedom and democracy by means of " Other way " and other researches has changed conditions of ideological disputes in Peru, having created an opportunity of the agreement on those major questions on which earlier there was only an antagonism. While the organizations of the right direction by the first have accepted offers of Institute as a basis of the pre-election political platform, left, including the party which is being at authority, have accepted legislative offers of Institute as own programs. The purpose of reforms became following measures: strengthening and protection of the property rights; providing of access to credits for all layers of the population; reorganization of the administrative device of the state, its simplification and an openness for to whom now it is not accessible. Thus in Peru there has been begun process of destruction of monopoly for a formulation of laws and rules which belonged to the political, bureaucratic and economic groups having access to authority. The idea of the responsibility of the government before people has been put forward, that already in itself can lead to liquidation of such monopoly.

In the certain sense " Other way " - the effective book. In the Institute of freedom and democracy it induces to the subsequent researches and attempts of reforms which, in turn, give the new information and the new sights improving and aggravating vision of problems to which the book is devoted. In process of growth of number of translations of the book, we with pleasure mark, as they touch the general for all world of a string. Inspires also that new audiences bring to us the important information deepening our representations about what institutes will appear efficient and what will lead to accident. The book and the researches lead from the moment of its issue, have appeared rather useful to the governments of the developed countries, trying to resolve problems of the international development and debts. The major advantage and books, and the subsequent researches is that change of an essence of political debate in developing countries has begun. Adherents of violence as unique way of the decision of a problem of poverty, start to understand, that the best way of its eradication - peace институциональные the changes having support of the majority made destitute.

### **Word of gratitude**

I never would undertake this problem, if not Марио Варгас Льоса. Owing to it this work has taken the form of the book, it has involved me in this business and constantly inspired. To it, eventually, and to be responsible for all.

Since 1979 when my personal contacts to workers and businessmen of sphere of shadow economy have begun, and on 1982 when I have started to write this book, I devoted all free time to conversations and supervision, on places. When I have

collected enough information and have started to understand the importance of the phenomenon studied by me, it became clear, that for serious research the command of adherents is necessary. And not only because the object of research is too great for one person but first of all the help of professionals was necessary for carrying out of authentic researches and the analysis in various fields of knowledge for me.

The approach was necessary interdisciplinary: technics of carrying out of anthropological researches; the analysis, theories and reflections of lawyers and economists; the system approach to researches which engineers-designers own; art of the writer to speak about things so that to everyone it was clear.

My role here was similar to a role of the businessman: I have laid down the aims, have defined opportunities and have received resources for achievement of the first and expansions of the second. First of all, I have organized two symposiums and used incomes for financing initial researches and preparations of offers for funds. As soon as I have received means, I have made that always considered as the strength: I have collected a magnificent command which became nowadays Institute of freedom and democracy, and have invited excellent advisers. All these people - true authors of the given book. Мануэль Майорга ла Торре was the most important figure in all work. As the general manager of Institute, and in combination and the head of one of projects, it organized all commands and watched that they gave out results. In particular, it has incurred care of data acquisition, their processing on computers and preparation for the analysis. It also has incurred care of a management of all actions of Institute, having given me time for work above the book. At times I trust it when it approves, that there is no big difference - whether to supervise over construction of power station or work of Institute.

Луис Моралес Баиро has executed the most part of economic researches, in particular the analysis " costs - profit " on which the book keeps. Its energy, imagination and competence as the chapter of our economic group were invaluable at creation of the book, and became a technical basis for " Technical and statistical addition to the book " Other way ". Also it is pleasant to me to note the special contribution which was made by outstanding economists Georges Fernandez Beka, Keta Руис, Fernando Chaves and Caesar Burga.

At написаний the text of the book my nearest employee was Энрике Герси Сильва, the brilliant twenty five years' lawyer, started to work with me more four years ago. Энрике independently became the expert in economic logic. All my ideas before to lay down on a paper, were discussed with it. It - my most severe and frank critic. The vision of a subject, high educational preparation both so rich and bright abilities to the analysis and researches also are inherent in it, that without its participation the book would be at all that. I am convinced, that it should be more widely known in Peru, and its merits should be recognized.

My second employee was Марио Гибеллини, the young man of 26 years. It has literary gift, the winner of numerous literary awards, the author of known television plays. It - not only an art nature, but also the talented player in the command, able to maneuver and possessing unique ability to explain sense of concept by means of a minimum of words and technical terms. In this book there is no phrase which would not be copied, changed or approved by it.

Нелли Аракаки has organized our work how anybody another could not make it, quickly and patiently reprinting the approved variants and processing hundreds documents. I think, it is necessary to recognize it the best secretary in the world.

Daniel Herentsia and its command were engaged in processing of the information on computers, checking correctness of results and methods of calculation. Мариано Корнехо, Альберто Бустаманте, Марио Мурильо both their colleagues and advisers have developed many ideas used in sections on housing problems and in section " Sequence of changes " in chapter 8. Ivan Alonso has continued and has developed researches of activity of street dealers and has made the inventory of the black markets in Lima. Эрнандо Эйсагирре and its group of observers spent interrogations and valuable data in illegally constructed settlements have collected.

All publications of Institute, including the given book, looked through and corrected Роберто Маклин Угартече, Ренато Васкес Коста, Альберто Бустаманте and Ех Гуиффра. I have a useful habit to consult to them about my ideas as they are able to estimate them.

Tens the people, not being employees of Institute, have rendered us the valuable help the knowledge. It is impossible to name, unfortunately, here their names: many of them because of communication with the state or shadow structures would not like them to open. Nevertheless, I can and should mention special contribution Карлоса Ферреро, Рубена Качерес Сапата, Whether Хосе Ий, Рикардо Талавера Кампос, Лукреция Humboldt, Alfredo Kosej Bunsen, Victor Karrasko, Thomas Ungera's background, Карлоса Арамбуру, Фолке Кафка, Луиса Пасара, Рейнальдо Сусано, Fernando Iwasaki, Victor Montero, Хайме Роблес, Луиса Оливерос, Angelas Rivera Marks, Хесуса Элиаса, Edward де Риверо, Хуана Карлоса Тафур, Элио Тавара and Рауля Сако.

A number of foreign experts have brought the contribution to creation of the book or advice, or a writing of information on separate questions. It is especially pleasant to me to mention the anthropologist of Douglas Аззела from the Consortium of social sciences which not only has shown me as a little I know about anthropology, but also has helped us to start field works, and also Warren Schwarz from Джорджтаунского the university edified us in questions of the right and the economic theory. In this area with us also worked Robert Lajtan from Institute Brukingsa, Саул Левмор from Вирджинского university, the Floor the Ruby from the New York city university. Our main adviser in an estimation of scale of shadow

economy and influence on it from legal system was Michael Blok from Аризонского university. Costs of shadow economy have been estimated by means of Stephen Sejlora from Джорджтаунского university and Пита Рейтера from "Rand Korporejshn". Douglas То. Норт from the Washington university in Saint Louis, Джо Spot-check and Гордон Таллок from Georges Mason's university, and also Франсиско Габрилло from Универсидад Комплутенсе де Madrid have filled our questionnaire that has helped to understand history of mercantilism better.

I cannot finish, not having expressed gratitude to special group of people, financial and which encouragement in literal sense has made all this possible - the people divided all of difficulty, inspired and directed us on our way. At me a special duty of gratitude to employees of all ranks of the American agency of the international development, the Center of the international private business, Smith Richardson's fund.

I am grateful and grateful to all my colleagues, advisers and informants without whom occurrence of this book on light would be impossible. At the same time, should declare, that only I bear the responsibility for its maintenance. Despite of the extremely valuable technical help which they have rendered me, I cannot divide with them authorship of the book which substantially is my personal political statement.

*Эрнандо де Сото*

**Chapter 1. Introduction**  
**Migration**  
**Hostile reception**  
**From migrants in тенивики**

After the second world war in Peru have occurred most **далекоидущие** changes for all history of existence of republic in this country. It was not conceived or planned change, and consequence of millions the events gradually corrected seemen firm order.

The Peruvian cities have ceased to be small cosy places where everyone were familiar with each other. They have turned to faceless density populated mother countries with new, unfamiliar neighbours. For last forty years the internal migration has increased urban population five times and has forced to make reorganization of cities. There were new kinds of activity, they have gradually superseded traditional employment. Around of cities the set of modest dwellings, and with them - **мириады** workshops and shops, army of the dealers selling the goods in streets racing, innumerable quantity of minibuses in streets - and all this as though anywhere, constantly moving apart borders of city has grown. Daily the smoke and aromas from costing in the neighbourhood in streets of snackbars mix up with melodies of the Latin American music. Continuous inflow of fine handicraftsmen, not **расстающихся** with the tools, has expanded a range of usual city employment. Aspiration to adapt and an ingenuity have affected in expansion of manufacture of the necessary goods and services, have sharply changed the certain areas of manufacture, retail trade, construction and transport. Surrounding heathlands and hills have ceased to be passive elements of a landscape, and have become a part of city, and style of the European city life has disappeared under a pressure of noisy, sunburnt people.

Changing, cities, in turn, influenced the nature of people occupying them. Individual efforts began to dominate above collective. There were businessmen of a new formation, it come, unlike the predecessors, from local population. Vertical mobility has amplified. Samples of consumption and exclusive luxury of former society were replaced by others, not so refined. Among entertainments, for example, the theatre and an opera have in the course of time given a up the place of cinema, to football, festivals of a folk music, and recently TV. In the similar image consumption of such products as beer, rice, salt, and consumption of more dear products grew (wine, meat) decreased from a decade by a decade.

There were also considerable changes and in religious customs of Peruvians. Catholicism identified with traditional order, receded under an impact **протестантизма**, then there were also absolutely modern cults, including syncretic movement Evangelic association of mission **израелитов** the new world

contract. Esteemed with people sacred, for example Мельхорита or Сарита a Colony, not admitted church, have replaced the Бá;Ôá-rose de Lima and others traditional sacred in local arrivals.

Result became occurrence of a new cultural generality which should be described in social terms. Occurrence of music in style "чича", replaced андскую national and creole music, success of the certain forms of communications - radio programs and television " soap operas " which or reflect the certain elements of this new generality, or are addressed to them, - here only obvious examples of such change. Pages of a society column and the television programs, the devoted lives of the maximum layers of a society, gradually have disappeared, and detective series and programs of popular entertainments which seem vulgar ностальгически to the adjusted audience, became a popular show. People spend more means for the formation. The quantity of pupils in average and the higher school has considerably grown from local population, and settled down in palaces of former aristocracy of academy and institutes of all types suggest задешево to learn weight of useful things.

Representatives of the maximum layers have found out, that henceforth they should be side by side with people in restaurants and planes, on beaches, in boards of directors and even in the government. Many have preferred to leave them in the own, constantly narrowed world and to console themselves in memoirs on past times. Is such who were dug round in the closed quarters, visit clubs where time, apparently, has stopped, prefer to go only on the shady roads surrounded by trees and keep the habits dooming them on social and racial сегрегацию.

There were the new organizations, trying to revive or formulate anew some of the lost values and aspirations. Years regional, church and sports clubs, committees of tenants, associations of street dealers and even committees of drivers tried to protect well-being of the members. The family united different generations of relatives, in cities networks commercial or relations of production have replaced: joint participation in business by "uncle" and "cousins" now usual business. In process of expansion рамок economic activities, these organizations start to dominate also and over attitudes with the state. As a result creation of such base elements of an infrastructure as roads, systems of water supply and the water drain, the electric system, construction of the markets, granting of transport services and even departure of justice and maintenance of the law and the order - has to some extent ceased to be exclusive function of the state and now is carried out also by these new organizations. And as the role of the state is reduced, the same occurs to a traditional society. With gradual rise of the new organizations, the old unions and associations lose ground under legs,

and the number of members of trade union constantly decreases and makes now only 4,8 % of economically active population.

Disturbs, however, that only a part of the positions left by the state, have borrowed these new organizations. There, where is not present either them, nor the states - are reigned with violence. Attacks, kidnapping, rapes and murders are done more and more frequent, and aggressive style of driving and street simultaneously extends are done more dangerous. The police has gradually lost the control over a situation, and some policemen have appeared involved in scandals and crimes. In the overpopulated prisons bloody fights, and in case of runaway of prisoners do not stop, that sometimes occurs not without the help of security guards, the criminality grows in all city. Distribution of violence forces citizens to protect itself in the ways accessible to them: all types of the weapon, including machine guns and automatic devices, by means of hour in various uniforms and even secret bodyguards. All this became the usual phenomenon. Every day all of us the offensive cine stereotype of banana republic is more reminded.

People get used to live beyond the framework of the law. Larceny, illegal capture of the property became the usual phenomenon and not so disturb human conscience. Having washed money, some criminals have borrowed visible position in a society.

The full oblivion of limits admissible has turned a life of the Peruvian society up a bottom so acts though and considered officially criminal are possible, but more not condemned by collective consciousness. Contraband - a bright example. Everyone, from lady-аристократки up to the most modest inhabitant, gets illicit things. Nobody tests the slightest remorse in this occasion; on the contrary, it is considered as demonstration of a personal ingenuity or as original revenge to the state.

Such инфильтрация violence and criminality during an ordinary life it is accompanied by growth of poverty and deprivations. The average real income of the Peruvian for last ten years constantly decreased and is now at a level of twenty years' prescription. Everywhere mountains of dust. Day and night legions of beggars, washermen of machines, collectors of dust, tramps besiege passers-by, eliciting money. The insane persons, stinking urine, naked wander on streets. Children, lonely mothers, cripples beg at each corner.

Interest of citizens in public affairs grows. Such concepts as inflation, devaluation, an external duty, have ceased to be the secret accessible to only selected representatives of elite; they became subjects of discussions on which at everyone will be what to tell. The governments nowadays should submit to the actions consideration of the public, and social recognition or the protest became the political force influencing stability of the government.

**There was a new attitude to the state. The bureaucracy has lost social prestige. Citizens have reconciled that for achievement of the purpose it is necessary to give a bribe to officials. The traditional centralism of our society has confirmed obvious inability to satisfy numerous needs of the country in a transition period. The inefficiency of legal proceedings has generated growing disappointment in the mechanism of execution of laws and loss of trust to it. It has in turn led to an amplifying dissatisfaction with existing position, that - on a background of rise of new kinds of activity - conducts to constant decrease in the social importance of the state.**

**In this situation many Peruvians have learned to try to get every possible privileges that allows them to overcome the difficulties at the state, but simultaneously conducts to growing politization of a society. Small groups of special interests combat among themselves, involving in the conflicts of public figures. The government distributes privileges. The law is used to give and take more, than supposes morals. Many mass media depend on the state support or the state banks and consequently go on bow to authority имущим, refusing an opportunity to convict abusings or even objectively to shine events. Generally speaking, to learn a true essence of an event, it is necessary to use several sources of the information.**

**Such state of affairs has sharply changed public installations. There was a terrorism as violent alternative of a present situation, but there was also a new attitude to concept "Peruvian". The Peruvian, unlike intelligency of our country looking a shelter in idyllic innocence андского of people, is not inclined to these decadent features. Terrorist movement in itself suggests to conduct " national war of village against city ", giving out itself for updating force of the changes coming from internal depths of Peru.**

**The order of things in Peru has changed. Though the life in some parts of the country flows the same as also century back, the modern history nevertheless is written in cities. Here in a greater degree, than in a countryside, we can see results of changes or reaction to them. The present, at last, starts to win. Anything any more will not be how was earlier. The past will not return.**

## Migration

Changes have begun, when people from self-sufficient agricultural communities has moved to cities, having broken long historical tradition of a life in isolation. As we already marked, between 1940 and 1981 number of urban population in Peru has increased almost five times (with 2,4 up to 11,6 million person) while number of agricultural population has increased hardly on third (with 4,7 up to 6,2 million) . Thus, if in 1940 65 % of the population lived in rural areas and 35 % in city to 1981 this parity became the return. For greater presentation we shall present, that in 1949 two from each three Peruvians lived in a countryside, and in 1981 two from three were already the townspeople. If to consider, that in 1700 in village lived 85 % of all population, and in cities - only 15 %, and that to 1876 the population of rural areas made still 80 %, and city - 20 % of an aggregate number drama changes, происшедшие for last 40 years, seem even more tremendous. Historically habitual prevalence of peasants over the townspeople has departed in the past, living conditions have sharply changed, transition from an agrarian civilization to city has been accomplished.

The beginning of a urbanization of Peru was put with a massive migration of the population from rural areas in city, that has been fixed by national statistics in 1940, however has actually begun a little bit earlier. The urbanization has coincided with fast growth of all population of the country. Before rates of growth of the population were rather small. According to not so exact population censuses, for last two centuries the average increase in population made 0,6 %. And during with 1940 on 1981 the population has grown in 2,5 times (with 7 up to almost 18 million person). The Increase in population was especially great in Lima. The population of capital for the specified period has increased in 7,6 times. In 1940 it made 8,6 % of the population of the country, now - 26 %. The number of migrants to Lima has increased more than in 6,3 times (with 300 thousand up to 1,9 million person) during with 1940 for 1981

Influence of migration on growth of the population of capital affected and that birth rate at women-мигранток was above, than at горожанок, and the parameter of children's death rate in their environment became below, than it would be in a countryside. It is possible to illustrate it so: if not migration after 1940, in 1981 the population of Lima would make only 1 million 445 thousand person, instead of 4 million, fixed in censuses. Or, on the other hand: in 1981 two third of population of Lima migrants or children of migrants while the remained third was made by the radical townspeople made. Migration - here the key factor at an explanation of changes. But it is necessary to explain still, this migration whence has undertaken. As in any social phenomenon here it is a lot of reasons. In total the role of construction of roads is more appreciable. After Pacific war, происшедшей hundred years ago, the full reorganization of Peru included creation of a network of highways instead of

modernization of traditional means of messages - railway and a sailing charter has been undertaken. In the beginning of XX century in Peru was only nearby 4 thousand kilometers of highways; in 1981 extent has made them 56 thousand kilometers. Owing to the Law on construction of the roads, accepted in 1920, and to plans on creation of a national network of highways, and also other actions, the isolated roads constructed still инками and colonizers, have turned to a modern high system which became a material basis of a massive migration, and also has caused in agricultural population growing desire to move to cities.

The subsequent development of other means of the message has given an additional push of migration. Painting opportunities, pleasures and comfort of a city life, broadcasts caused in people all forms of enthusiasm, and first of all hopes for growth of incomes and consumption. The civilization, so to say, has been offered to everyone, whom the boldness sufficed to take it.

In the academic circles popularly opinion, that agrarian crisis 1940 - 1945 was the second determinative. Modernization of agrarian sector, instability of the market of sugar and the clap, caused by the second world war, - all this has led to mass lay-offs of rural workers which have gone on searches of new prospects.

Influence of agrarian crisis on migration is connected also with a problem of the property rights in a countryside. [in this book we use wider concept of the property rights, than usually in the state Peru. We assume, that the property right inalienably and exclusively. Fuller explanation see in chapter 5 (" Than it is necessary to pay for absence of the property rights ").] Traditional difficulties with reception of an allotment have even more amplified and have extremely become aggravated, when in 50th years long and astable process of agrarian reforms has begun. Not having neither the grounds, nor the works, many people decided to migrate in cities - in attempt to find the property, in which to them refused before and by that to satisfy the material needs.

Lower level of children's death rate in Lima was one more reason of leaving from a countryside. Decades the death rate in capital was below, than as a whole on the country. In 1940 the level of children's death rate in the country made 181 on 1000 children, and in Lima - 160. Break has increased with growth of qualification and volume of medical services; in 1981 the level of children's death rate in the country made 98 on 1000, and in Lima - 44 on 1000. This stimulus to migration eventually amplified.

The important reason was and the high wages are more white. In 1970 the people left village for the sake of not qualified work in Lima, could treble the monthly earnings on the average. The people received the salary, учетверяли the former income, and technical experts could receive six times more. Higher wages compensated risk of unemployment: 2,5 months of work in city were to enough average migrant to compensate loss of the income of annual unemployment. Loss of

the income for two years of unemployment could be compensated hardly more than for 4 months, and so on.

The last (but not on the importance) powerful stimulus to migration in city were growth of the governmental bureaucracy and an opportunity of reception of the best formation. Centralization of redistribution, sensation of affinity to the circles, making political the decision, presence in city of the majority of the government agencies, capable to give consultation to answer the requirement, to resolve something, an opportunity to find work in corresponding spheres - all this transformed обуржуазившуюся the governmental bureaucracy into additional stimulus to leave village. Besides until recently 45 % of graduates of high school, 49 % engaged in training centres, 46 % trained in system of higher education, and also 62 55 % and, accordingly, submitting the application on reception in university and acting there, were in Lima. To peasants, whose unique capital are they, formation is represented a valuable and effective premise of the capital.

The listed facts testify, that migration was not irrational action, not whim and not display of a gregarious instinct, and result of a rational estimation of the opportunities opening in city. Unimportantly, or incorrect their choice was how much true, but they counted, that crossing to city will be for the blessing.

## Hostile reception

Having arrived to cities, migrants have appeared, however, in an environment of the hostile world. They have soon understood, that the official society favourably looked on *буколический* the rural world of Peru and recognized it the right for a happy life, did not wish moving this world to cities. Programs of the help and the developments intended for rural areas, were planned with that calculation, that peasants will improve the share there where live, far from cities. It was supposed, that the civilization will go from cities to villages, and nobody thought, that peasants are to it.

Animosities was extreme. In 30th years has been vetoed construction of cheap habitation in Lima. There are witnesses of that in the beginning of 40th years president Manuel Prado considered the funny project " improvements of race " which provided encouragement of immigration from the Scandinavian countries in cities Perus. Per 1946 senator Manuel Faura has brought the bill forbidden to inhabitants of provinces, in particular mountain, to move to Lima. In parliament of following convocation a member of House of Representatives Salomon Sanchez Burga has submitted for consideration Chambers the offer approved by Chamber that any inhabitant of the province, wishing to drive in capital, had at itself the special entrance passport. Both offers in parliament have not passed, but they evidently show, that even then there was precisely expressed unwillingness to suppose migrants in cities.

In acts of politicians of that time there is nothing strange. Cities Perus initially were the administrative and religious centers which problem was putting in order in the wild rural country. Cities represented *островки* the order in the sea of chaos. Therefore the subsequent generations of the townspeople, successors old *андских* and the Spanish traditions, did not test anything, except for horror, before migration from villages, before chaos which finally would absorb their ordered world. Moreover, each person migrating in capital, is the potential competitor, and the aspiration to avoid is quite natural a competition.

However the greatest animosities to migrants was shown by legal system. Till some times the system could absorb or ignore migrants as their small groups could not break the status quo. With growth of number of migrants the system could not remain more passive. When greater groups of migrants have reached cities, they have appeared cut off from legal social and economic activities. It was extremely difficult to them to get access to habitation and formation and it is almost impossible - to begin business or to find work. Easier speaking, legal institutes of Peru were created for many years for satisfaction of needs and maintenance of privileges of the certain dominating groups in cities, and also for geographical isolation of peasants in rural areas. While this system worked, legal

**discrimination was not appreciable. As soon as peasants have started to settle in cities, these laws have ceased to be socially comprehensible.**

**Migrants have found out, that it is a lot of them, that the system is not ready to accept them, that on their way is erected more and more and more barriers, that they should pull out with fight the right to each step at the establishment, not inclined this right give, that on them advantages and the benefits given by the law do not extend, and that, eventually, a unique guarantee of their freedom and prosperity are their own hands. To put it briefly, they have found out, that should compete not only to people, but also with system.**

### **From migrants in теневики**

To survive, migrants became теневиками. If they wished to live, trade, make, transport or even to consume it, to new inhabitants of cities, it was necessary to do it only illegally. In such illegality there was no antisocial intention, unlike наркобизнеса, larceny or a robbery; the purposes were quite lawful: to build houses, to render services, to be engaged in business. As we shall see later, more than possibly, that, speaking economic language, the people directly involved in this activity (as well as a society as a whole), live more safely when break the law than when respect with it. It is possible to approve, that illegal activity prospers, when legal restrictions exceed some socially comprehensible level so the law does not recognize expectations, choice and those hopes who has no access to it, and thus the state does not possess sufficient force of compulsion.

The concept of illegal economy is based on empirical supervision of the phenomenon. Persons in itself not shadows; their actions and activity are shadow. Those who operates with illegal image, do not make the certain or static sector of a society; they live in the illusive world having протяженную border with the world of legality, and in this illusive world people when costs of observance of the law exceed benefits from its observance run. Extremely seldom shadow activity breaks all laws; their only separate positions are in most cases broken. Ways of infringement will be described below. There are kinds of activity for which the state has entered system of the exceptions allowing теневикам to continue to operate, not having found thus of a legal status equivalent to volume which the people who are being under protection and protection of the Peruvian legislation as a whole have; such activity too is illegal.

This book narrates about migrants who became теневиками for last 40 years. I aspired to show, why we became the country where 48 % of economically active population and 61,2 % of working hours fall to illegal activity as a result of which 38,9 % of a total national product (GNP) considered by national statistics are made. In this book attempt to explain the reason and prospects of the changes occurring in Peru is done, activity of those who is in avant garde of these changes, - теневиков is analyzed. The book tries to explain also why our legal establishments could not adapt for occurring changes therefore, at labour productivity only in 1/3 from a level in legal sector of economy, the shadow sector continues to extend and it is possible to expect, that to 2000 here will be made by GNP on 61,3 %, fixed by national statistics. In the book it is shown, why the new establishments developed неформалами, represent clear alternative on which other order comprehensible to all Peruvians can be based. Certainly, the book offers also ways of the decision of considered problems.

In first four chapters of the book we describe the world which gradually opened before us within 6 years as we got acquainted with теневиками and their official partners. On the basis of the and another's supervision we show, as in three sectors - housing construction, transport and trade where the Institute of freedom and

democracy could finish the researches, - теневики have won to myself space and began to appropriate gradually the most part of the market, the ground on which they could live and work, streets for accommodation of the shops and shops, and also for granting transport services. In all these cases they openly neglected laws and challenged to the state establishments, creating in them a gap through which other part of a society also began to leave legal sector. As теневики progressed, the Peruvian state was rolled away back, considering each concession by it as time, " before the termination of crisis " though actually it has been compelled to accept strategy of the constant deviation gradually done it unnecessary.

In the first part of the book it is told about how " потаенное Peru " the beginning long and persistent struggle passing by a legal life, struggle so gradual, that its results start to affect just now. We are witnesses of most significant of all revolts against the developed order of the things ever was in history of independent Peru.

Initial the chapter are devoted to Lima. In the first chapter <here the second - a comment ред.> we show, how by intrusion or illegal capture of the grounds settlements of migrants, components nowadays 42,6 % of all available housing of Lima in which there live 47 % of the population of city expanded. These dwellings constructed deprived of civil rights поселенцами by long-term deprivations, today are estimated in 8319,8 million dollars a set example illustrates only a part of huge abilities теневиков to create riches.

In the second chapter <here the third - a comment ред.> it is a question of how 91 455 street dealers of Lima have grasped domination in retail trade of capital and as they are possible manage more than 314 thousand relatives and dependents. Besides to leave a life of vagrant dealers, 39 thousand person, overcoming set of obstacles, have managed to create or get 274 not registered markets estimated in 40,9 million of dollars.

In the third chapter <here the fourth - a comment ред.> we tell, how, having grasped roads, теневики have managed to establish the control over 93 % of city transport park and 80 % of its landing places. You learn also as they have laid the transport routes serving nowadays Lima.

In the first part of the book other information contains also. For example, how теневики, not allowing to overflow of anarchy, have developed own laws and establishments (which we we name " system внезаконных norms ") to compensate defects of official legal system. They have created the order alternative officially existing. We also list stages of struggle which conducted внелегалы last decades, their collisions and alliances with the state, communications with politicians, ways of growing to a life of our city.

At last, in these chapters we analyze, as теневики have transformed capture to alternative methods of expression of value of things and as them at first sight superficial decisions were based on rather complex reasonings. To put it briefly, in

these chapters we try to explain logic, is hidden present in actions of shadow economy.

The second part of the book represents the analytical research showing, that those or other costs in our society grow out this or that way of development of laws - as though the riches were the share capital which actions are redistributed by the state in favour of groups of pressure. This approach to management confirms relevance of a historical parallel with mercantilism - the system defined European economic and the social policy with XV till XIX centuries.

The most complex part of the book is devoted to an establishment, measurement and classification of existing costs. Here it is told about costs of stay under protection of the law and on how these costs influence access to various kinds of economic activities and on ability to remain in it. Costs and losses of the country are described also when citizens have no protection of the law. The role of legal establishments in an explanation of poverty and the violence, new tendencies in culture, approaches of shadow economy and deviation of the state, in other words, in an explanation of changes in our society is shown.

In chapters 6 and 7, devoted *перераспределительным* to traditions and mercantilism, one of key arguments of the given book is stated: not feudalism and not market economy, and mercantilism made a basis of economic and social system of Peru after arrival of Spaniards. Occurrence *устрашающе* huge shadow sector is revolt against the mercantilism, accelerating its death. In last chapter we do some conclusions about the future Peru and possible ways of the sanction of present crisis.

It is easy to judge accuracy of our calculations: everything about what we spoke proves to be true. In this book there is nothing, that would require acknowledgement by means of complex laboratory experiments. It is enough to open only a window or to leave on street. Nevertheless, as has passed not enough time to judge events, the book cannot be considered scientifically-historical. It is the political book factual. Undoubtedly, later some years will be necessary for copying it anew. Thus it will not cease to be the guiding book showing, that in abyss of misfortunes there is a hope based on creative potential and energy of Peruvians, which else it is necessary to develop legal and *институциональные* frameworks of successful development.

## **Part the first**

### **Chapter 2. Внелегальное housing construction**

#### **Illegal capture of the property**

#### **Evolution внелегального housing construction**

#### **Long way to a private property**

Last four decades the area of Lima has grown on 1200 %. This in itself is surprising, that so ощутимый growth was substantially внезаконным however is even more amazing. People got, developed and built up sites, operating beyond the framework of the law or in infringement of the law, created внезаконные settlements. [the term " внезаконные settlements " we designate here all kinds of settlements which are known in Peru as young cities, маргинальные human settlements, municipal settlements, associations, cooperative societies, zones of reception, a refuge and so forth]

Eventually some of these settlements have got the cut down lawful status in what reaction of authorities to a problem is visible. As a result inhabitants of settlements have acquired is only right on structures, but not on the ground. Thus they periodically are exposed to numerous restrictions in realization of the rights. Some settlements have been created by the government for political reasons, however their further development differed from development of other settlements unless, probably, was less successful a little.

The traditional sequence of stages of city construction in illegal settlements is broken. First теневики grasp the ground, then build on it, then create an infrastructure and only in the end get the right of possession. This sequence of actions is directly return that which is usual in the legal world. Therefore such settlements develop differently, than traditional city areas, and leave impression constantly under construction.

It is necessary to note, that from all volume of habitation in Lima in 1982 42,6 % 49.2 % - on legal buildings and 8,2 % - on slums in areas of these buildings were necessary on внезаконные settlements. That is on each ten legal houses or apartments in capital it is necessary nine illegal. In 1982 47 % of the population of capital lived in illegal home ownerships, 45,7 % - in legal, and the remained 7,3 % - in slums.

There are the areas which have been built up in exclusively illegal way, others substantially are illegal.

In today's Lima land owners are any more only the traditional families living in elegant comfortable manors, but also migrants, and their relatives, taken an attack city, which did not wish them to start up, and compelled to break the law to build houses and to equip quarters. New inhabitants of Lima have brought the significant contribution to creation of national riches, having caused increase of the prices for the ground and having enclosed considerable means in construction of own habitation. Owing to it the myth that Peruvians of a simple origin are unable to satisfy the material needs and thereof require the control and the help of the state has been dispelled widespread even in rather progressive circles. According to estimations of our experts, average regenerative

cost of illegal buildings in the prices for June, 1984 made 22 038 dollars, and the general estimation of all illegal building of Lima comes nearer to 8319,8 million Dollars that 69 % of all long-term external debts of Peru in the same 1984 are equivalent

For an estimation of importance of the contribution **теневиков** in a national economy it is necessary to compare it to achievements of the state. Between 1960 and 1984 when the mentioned investments into housing construction have been made, the state also built habitation for people, whose social and economic position was similar to position **теневиков**. The state investments into housing construction were estimated 173,6 million dollars that makes only 2,1 % of shadow investments. In 1984 total legal investments into housing construction, including charges on construction of habitation for middle class (nearly 862,2 million dollars), have come nearer only to 10,4 % of shadow investments.

That **внелегалы** could construct beyond the framework of the law quarters where there live approximately 47 % of the population of Lima where 42,6 % of its available housing estimated in 8319,8 million of dollars are concentrated, the role of legal formalities should was to be reduced to a minimum, and illegal attitudes - to gather such force that on them the alternative system of city construction could develop. Further we shall try to explain this process. We shall begin that we shall describe how there is an illegal capture of the property. That we shall define **внеправовые** norms, its adjusting, and logic of their functioning. Then we shall describe development **внелегальных** settlements and gradual deviation of the rules of law lost under self ground. And, at last, we shall show, how **теневики** have finally won and have established new system of the property rights to the ground.

### **Illegal capture of the property**

During researches employees of Institute have not found certificates of that the life in **внелегальных** settlements is disorganized and anarchical. On the contrary, they have found out presence of some **внеправовых** the norms adjusting somewhat social attitudes and partially compensating absence of a legal protection. These **внеправовые** norms gradually create stability and a guarantee of inherence of the won rights.

From waters of these corrected Institute has named " system **внеправовых** norms ". This system including both norms of a shadow common law, and the rules borrowed from legalized legal system, is called to operate a life **внелегальных** settlements when are absent or laws are insufficiently full. **Теневики** have created

"law" to adjust and order the life and business relations owing to what it is socially significant.

We have revealed, at least, two ways **внезаконного** purchases of the ground for construction of habitation. The first is a capture; the second - illegal reception of the agricultural grounds through associations and cooperative societies. In both cases we observed functioning some elements of system **внеправовых** norms.

### **Capture**

The state or private ground is grasped by two ways which we have named "gradual capture" and "violent capture".

The first way of capture is a gradual assignment of the ground in already existing settlements. Usually it is the settlements of agricultural workers surrounding farms or manors, and miner's settlements which owners, as a rule, have special attitudes with aggressors (their workers or tenants) that is why are not interested in their exile. Owners, basically, not so appreciate this ground which and really small costs in comparison with all other property, and do not apply greater efforts to keep it behind itself. The new people who are not having any attitudes with owners in due course come. They or join relatives, or they manage to buy, rent, or easier to grasp a plot of land. So newcomers gradually occupy the ground adjoining initial settlement, yet do not take hold of all area. The settlements created by gradual capture, get the final form only as a result of long process.

That owners have refused attempts to return the ground, these "aggressors" should possess not which "critical weight", allowing to put pressure upon owners of the ground and to carry on with them negotiations. Over actions of "aggressors" the internal logic rather similar to that about which we learn further supervises.

At the second way of capture initial communication between **поселенцами** and owners of the ground is absent. For this reason capture should be violent and sudden. However it also demands complex, detailed planning. According to supervision of Institute, violent capture begins with a meeting of group of people from one family, quarter, area, each of which is interested in habitation. The group develops the plan of capture at one or several secret meetings. At times professional "aggressors" participate in it - trade-union leaders, politicians or is simple the businessmen offering the experience in the organization of captures in exchange for certain political or economic agreements.

After creation of an initiative kernel meetings on which choose a place for the future settlement are spent. Here estimate an acceptability of a site and difficulty of operation on capture. A choice of the public or private grounds for this purpose not случаен. Conspirators estimate chances of success otherwise. It is counted up, that for these years of violent captures of 90 % have been turned on the state grounds, especially on waste and free. The state ground to appropriate easier as nobody's

personal interests so, there are no reasons for response are not mentioned. Political grounds operate also: the government can concern with sympathy to illegal capture of the property, having seen in it the spontaneous certificate of fair redistribution.

As soon as the ground is chosen, the initiative group tries to convince the interested parties, that it is more favourable to them to support capture, instead of to operate is isolated. So formation of " critical weight ", sufficient begins to reduce probability of intervention of police or intrusion of competitors, other group. Then by means of engineers or students of technical specialities the plan of construction is developed. Individual sites are distributed. Platforms under public constructions (schools, the medical centers or municipal services) and zones of rest (parks or athletic fields) are allocated. Census of aggressors is made and the size of a payment on the general charges is defined. Get out responsible for negotiations with authorities, for maintenance of legality and the order in settlement, for the organization of resistance to any attempts of eviction (creation of pickets from поселенцев). Sometimes employ lawyers and fill official applications on lawful fastening the ground for поселенцами so the copy of this application with assurances can be shown to any representative of authority, that the application is considered. Owing to such reception leaders have the bases to approve, that they do not plunder the state property, and lawful by ask the right to possession of the ground and that they have been compelled to grasp the ground only to prevent such capture from others which are often not existing, внезаконно.

After end of these preparations capture begins. Everyone do at night or in the early morning. Date usually choose on any civil holiday's eve: so probability of fast punishment from forces of the law and the order there is less. Aggressors - them there can be one hundred or forty thousand - arrive by the rented lorries or minibuses, bringing with itself колья, piles, reed маты and everything, that is necessary for erection of a temporary barracks. Having borrowed a site, поселенцы establish set of national flags to show, that they not criminals, and patriots who struggle for the rights and social justice. Immediately after this picketeers designate borders of sites crushed мелом. Women and children clear away the ground, and after some hours sites are already distributed and on each of them the tent from cane towers is matte, under the form reminding Eskimo the needle.

The public kitchen which feeds поселенцев in the first days is there and then developed. Kids collect in groups, enabling their parents to carry out the charged duties. Depending on initial plans or the sizes of settlement, leaders поселенцев can accept and place in addition the people, decided to join capture, increasing thus critical weight. Often simultaneously with it negotiations with the nearest committee of drivers of minibuses begin prolonging routes up to new settlement and to provide inhabitants with transport. As soon as the ground is grasped, there are street dealers;

they incur maintenance поселенцев food and other goods. There are also sellers of building materials with all necessary for erection of the first houses.

Aggressors accept also various safety measures to avoid reprisals and to support legality and the order inside of settlement. The security pickets ready by means of stones are formed, палок and other suitable subjects to reflect any attempt of eviction or to punish any who breaks the order. Other way to avoid reprisals or even to reduce their efficiency - to name settlement of the operating president, its spouses or other outstanding politicians to involve their sympathy. So was in settlements Марио Дельгадо де Одрия, Клоринда Малага де Прадо, Педро Бельтран, Хуан Веласко Альварадо, Victor Raul Ajs де ла Торре, Country house Виолетто and Пилар Норес де Гарсия, as, however, and in others.

At last, if the police tries to expel aggressors, women and children are built in a rank to cause sympathy in authorities and to put police or armies in position of thugs.

### **The contract on capture**

In a basis of process of capture the clear and precise logic of actions lays. Nothing is given on will of a case, all is planned. Therefore before the beginning of capture as soon as the initiative group, differing greater enterprise, will reveal the general interests, pass negotiations between the future aggressors. In this sense we speak about " the contract on capture " as about a source внеправовых norms and the rules defining a life in внелегальных settlements.

The basis of the contract is formed with the various agreements necessary for realization of capture. Positions of the contract share on two groups: the first concern creations of settlement, its lay-out and distribution of the sites, the second - to the responsibility and the functions of members of group which are responsible for performance of conditions of the contract. Actually to settlement concern the agreements fixing a lay-out, distribution of the ground and the organization of initial census поселенцев. The agreements establishing mechanisms of election of leaders, purpose concern To the most illegal organization responsible for negotiations with authorities or, if necessary, with owners the grounds defining distribution of the budget and purpose of the salary to functionaries, the order of updating of results of population census. The same agreements provide maintenance of the law and the order, realization of legal proceedings and even the organization of resistance.

Such contracts are characteristic not только for violent captures. They are made and at gradual captures - every time when the initial group of aggressors decides to locate on the ground and to establish system of mutual relations and procedure of acceptance of new members. Happened, that the initiative group tried to limit inflow of new members and by that provoked acceptance of the new contracts hostile in relation to it. As an example that is served with settlements Mirones Вахо, Рейнозо and San Jose де Трес Компьюэртас, gradually generated to 1961 under the initiative of

Federation of the builders which have demanded allocation for the members of the public grounds in riverheads Римак after reconstruction of the channel in 1940 Then disagreements between the various organizations поселенцев have flashed, and everyone demanded an official recognition for the and exile of other group. As each group demanded in the order objects of public service, access to which cannot be limited (water, the water drain, electrosupply), to it was necessary to reconcile to the general advantage. Similar collisions more likely exception, than a rule. The contract on capture is usually opened for participation that is important for accumulation of critical weight and convincing demonstration of that in this case social needs above requirements of the law and to owners of the ground it is not necessary to get excited.

In general, the free consent of the interested parties and an openness for occurrence of new participants raises effectiveness of the contract which is not necessarily fixed on a paper.

### **The expected property right**

Realization of the contract on capture immediately creates the rights not having legal analogues to the ground which we designate as " the expected property rights ". The idea of an establishment of the valid right under own initiative and contrary to the accepted norms can seem strange. However our researches have shown, that the such rights gradually, start to prevail in Lima: from everyone 100 buildings constructed in capital in 1985, 69 were under control of внезаконной systems of the right and only 31 - under control of lawful.

But the expected property right is not given owners of those benefits and advantages, that by the legalized system of the right. Such rights operate temporarily while the government will not legalize shadow possession or while eventually the amateur organizations will not find ability to protect the rights so effectively, as well as the state. Therefore the expected rights gain in strength gradually. In the beginning the expected right is based only on presence of aggressors on the ground. Then in its basis results of census which they spend that задокументировать fact of possession ground and to reduce need for the constant physical presence are put. In the further the expected right receives a support in activity of authorities. Each of 159 steps on bureaucratic labyrinthes, which поселенцы should make to legalize settlement, to receive the property right to the ground, to unite the area with city, - and this process borrows on the average till 20 years, - raises reliability and stability of the required rights. Nevertheless, the increasing confidence of the rights does not mean full integration into administratively-legal system. It more likely an exception to the rules, but поселенцы consider it as a signal for increase in investments into construction. As soon as it becomes clear, that the state is not measured to disperse поселенцев, they start to build houses of materials more suitable, than reed маты. Construction, in turn, strongly strengthens the expected rights as in Peru it is politically impossible to

take down properly constructed house. And houses can be considered as the first documentary acknowledgement of the right to the ground. The investment of means in housing construction is defined, thus, by a degree of legal security of settlement. The above security, the основательней goes construction, and on the contrary.

To illustrate the given situation, researchers of Institute have chosen as an example illegal settlements Mariskal Кастилья and Daniel Alkides Karrion, constructed one near to another almost simultaneously and occupied by people with identical social and economic characteristics. They differ only with a level of a legal protection: the first was considered to constants, and the second - time. As a result the average investment of means in construction of houses in the settlement protected by the law was in 41 times above, than in time settlement. Even if to consider only value of the ground without structures value of a home ownership in the legalized settlement was in 12 times above, than in illegal. Having taken for greater presentation and reliability of 37 settlements representing all spectrum of conditions and areas of Lima, researchers of Institute have found out, that average value of the legalized constructions was in 9 times above, than внезаконных.

The resulted examples show, that, though the expected property right creates some stability and a guarantee of possession of the ground to make possible construction on it of habitation, it not enough for an investment in construction of large means. People, at least, are more inclined to invest in 9 times, when receive any protection from system of the legitimate right.

Imperfection of the expected right is shown by that fact, that it does not give grasped the ground of the same rights to structures, as to usual owners. While there is no final right of possession, sale of the ground and delivery of constructions in rent are forbidden by the law. Поселенцы can use the ground, live on it, petition for the property on it, but thus they are always vulnerable, that forces them to accept expensive safety measures. The situation especially becomes complicated, when business reaches the order the property.

When, for example, there is a necessity to sell the property sell only structures, but not the ground. That the real fact of sale of the property as in occasion of the property on structures of questions does not arise masks. And the ground does not belong to the seller. Moreover, while there is no final property right and system of illegitimate norms protects only those who has invented it, sale should be approved by inhabitants of settlement, especially at early stages of its formation. Buyers are obliged to guarantee to assembly of inhabitants the readiness to join the existing contract and any additional contracts. Later, when the settlement gets a greater legal protection, sale is made simply under the agreement between the parties as it takes place in a usual society, without approval by assembly of inhabitants. Sale of the

ground, however, is always registered in the elementary register of the real estate which is conducted given *внезаконная* with the organization.

At last, when authorities dare to legalize finally settlement, they lean on records in this register so, eventually, this *внезаконная* the legal system carries out the applicability. Rent is not less complex, as there are fears, that authorities will accept the tenant for the owner of the ground. Therefore rent often mask under time residing, and the owner lives under one roof with the tenant.

We see, that, at all refinement *внезаконной* systems of the right by means of which inhabitants *внезаконных* settlements protect themselves, because of *внезаконного* a way of finding of the property on them the set of costs lays down. Into structure of these costs enter: the organization and carrying out of capture of the ground, risk of that will expel them or will move, the long period of legal vulnerability, a life without the elementary household convenience and absence of a usual city infrastructure. *Поселенцы* are doomed to linkage or squandering of significant resources as they should be constantly on a place, approving the presence of the right to it. Finally, they receive the property concerning which can have only limited rights.

Contrary to visibility, aggressors should pay for the ground very dearly. As money at them is not present, they pay in the own human capital. We live in not cheap society where people appear is diverse burdened not only when they wish to receive benefits from stay in the world with the law but also when they decide to operate illegally.

### **Внезаконные the organizations**

*Внезаконные* the organizations are created and formed *поселенцами* to execute the contract on capture. For many years to these organizations various official names were appropriated: associations of city development, association *поселенцев*, *поселковые* the organizations, advice *поселенцев* and municipal committees, the organization *поселенцев*. Irrespective of the name, all *внезаконные* settlements always had democratic management with precisely designated organizational structure consisting of the central management - an agency, and general meeting - an advisory body. It is sharp contrast with a picture of a legal society where at the same time legislative and executive authorities have been substantially concentrated in cabinets of actual governors of the country. In days of dictatorship even institutions of local government were not selected and did not function so democratically, as *внезаконные* the organizations.

The organizations which have resulted performance of the contract on capture, - not unique in *внезаконных* settlements. The set of other, various needs caring satisfaction *поселенцев* operates also, and they are very similar that exist in a legal society. It, for example, clubs of mothers, parental associations, school advice,

спортклубы and the church centers. Researches of Institute show, that grasping the ground **внезаконные** the organizations aspire to protection and augmentation of the received property. For this purpose they negotiate with authorities, support legality and the order, register the property in settlements and create local legal proceedings.

The first problem **внезаконных** the organizations - adjustment of negotiations with authorities as the system **внезаконных** norms though allows them to own the ground to build on it and even to use it in the economic purposes, these rights are rather incomplete and vulnerable. Therefore it is important to consolidate these rights by negotiations with the government. A subject of negotiations can be such questions, as a recognition of the received rights, granting of the basic services and creation of an infrastructure, and also other problems generated by the fact **внезаконности** of settlements. Negotiations with politicians and bureaucrats demand maintenance of contacts, gathering of the information and expenses of time. Accordingly, **внезаконные** the organizations try to find competent leaders and enough of political and bureaucratic contacts to have support. Inhabitants of settlement, not reflecting, will displace the management if it will lose touch with authorities. Such orientation has in the course of time developed a flexible political pragmatism.

Supporting legality and the order, the organizations struggle and against ordinary criminals. During capture for protection **поселенцев** pickets are formed, they protect settlement and accept new members. When the settlement is created, these problems are carried out by inhabitants or specially appointed committees. But in any case, at an attack the alarm - by means of whistles, lanterns, alarm lamps, and **поселенцы** rises, armed **палками** and **матокками**, reflect an attack.

As **внезаконные** the organizations aspire to raise a standard of living of the members and value of their property, they care of presence of municipal services. With this purpose choose special committees for connection to systems of water supply and the water drain, electrosupply, for construction of roads and sidewalks. The budget of these committees is made of payments **поселенцев**, minus costs on the maintenance of leaders, the organization of public works, passage of bureaucratic procedures, payoff of officials. The plan of charges affirms general meeting **поселенцев**.

For reduction of expenses inhabitants of settlements perform many public works. Depending on diplomatic skill of leaders and favour of authorities, it is possible to convince state or some private organizations to perform work free of charge or to pay expenses. Often for performance of works the contract with legal contractors consists.

Other problem **внезаконных** the organizations is conducting the register of the grounds, that the nobility who owns what site. The register is quite often conducted in a notebook or even reports of general meetings. That the list of owners and sites did not become outdated, during, previous a possible official recognition, census repeat.

Therefore results of each census are time and in case of a divergence are corrected according to a real state of affairs.

As census - a unique source of the information, after long bureaucratic procedure documentary confirms the state data of these registers. Unlike that takes place in other part of city, the majority of the grounds in **внезаконных** settlements is registered not by the state, but only in these **внезаконных** registers. If during any moment the state had a need to get the obligatory account of sales (transfers) of the property, **внезаконные** settlements would present the most part of the necessary data earlier, than legal sector.

**Внезаконные** the organizations of development of the property on the of manners carry out justice at least in two spheres: in ground disputes and criminal offences. They had to incur the sanction of ground disputes mainly because the judicial system of the state overloaded by set of problems, here absolutely stayed idle. The government has transferred the responsibility for the sanction of these conflicts from judicial system on the governmental bureaucracy. Last has appeared is absolutely suppressed by a pressure **поселенцев** and compelled or to fix the decisions accepted **внезаконными** by the organizations, or to interfere at the latest stage of trial. There were even cases when not resolved disputes informally were left world judges, instead of to competent governmental bodies. Such world courts in the resolution of disputes lean, as a rule, on **внезаконные** norms as the system **внезаконного** justice appears here quite adequate. And frequently also there are no at all legalized rules of law by which it would be possible to be guided.

All this encourages use **внезаконного** legal proceedings for the sanction of ground disputes. Leaders and general meeting **внезаконной** the organizations operate as courts of the first and second instances accordingly and intrafamily disputes on possession of the ground resolve disputes concerning the competing rights, infringements of contracts of sale or rent, **межевых** lines and even. However, according to calculations of our experts, 13 %-s' sites registered in **внезаконных** settlements, are a subject of suit. It testifies that absence **правопринудительных** powers undermines efficiency of the given system of justice.

As **внезаконные** the organizations should support legality and the order, they inevitably develop criteria of justice as well on criminal cases. If the attack at court appear both accused, and the victim, for example, is accomplished. Accused protects itself. Presentation of proofs, including a testimony to which the great value is given is authorized. The jury consisting of chapters of families, sentences. It is curious, that the Peruvian judicial system does without a jury, preferring professional legal proceedings which leans on a never-dying prejudice, as if the average Peruvian is so uneducated in civil cases, that it cannot be entrusted the responsibility for the decision - whether is guilty accused.

The big range of the punishments depending on weight of a crime is stipulated. For usual crimes corporal punishment, exhibiting before people in the naked kind or exile are appointed, and inhabitants of settlement take part in the last all, expelling criminals from their sites. If those resist also exile cannot be completed at once to new inhabitants usually allow to lodge on a part of the ground belonging the criminal so sooner or later отверженный loses in full or in part the expected property right.

Murderers usually transfer in hands of police if the criminal before have not time to lynch. Rape of children is punished by death. The caught tyrants called in people by "monsters", usually lynch. When the police finds out a body, it a little that can find out and is limited to delivery of a body in a mortuary, silently restraining with existence внезаконных systems of justice. All punishments are subordinated to custom - in внезаконных settlements there are no written codes. Last military government has tried in 1975 on the Country house an ale El Salvador to order and systematize system of punishments, but nothing has achieved, as inhabitants have not supported this initiative of officials.

### **Illegal sale of the ground**

Capture - the first внезаконный a way of purchase of the property for construction of habitation; the second way - illegal purchase of the agricultural grounds through associations and cooperative societies.

In 70th years the government as one of components of an agrarian reform has called-to экспроприации and to redistribution between peasants of the processable grounds. On a twist of fate it has led to falling of the prices for the agricultural ground: threat экспроприации has lowered its value and has pushed many owners to sale of sites that has sharply increased the offer. At the same time the illegal economy has considerably raised incomes of greater groups of the population (drivers of minibuses, street sellers, owners of the underground industrial enterprises), and they now had an opportunity to get the ground. It has given a push to occurrence of the second method внезаконного capture. Its essence in secret arrangement of the future поселенцев with owners of the agricultural grounds in suburbs of Lima to which threatens fast экспроприация, about secret sale of the ground for creation new внезаконного settlements.

Thus the weight of dodges is applied. The first consists in the organization of associations and cooperative societies owing to what buyers not only find the legal person not causing suspicions, but also acquire the right to the state protection - as the organization on housing construction. And the social status of cooperative societies in general does political reprisals inconceivable. Other dodge consists that owners of the ground and теневики simulate capture. It is necessary to them to come to the agreement, members of association or cooperative society play capture, and owners of

the ground do not resist. From the point of view of authorities, it only one more violent capture.

Such by some private owners of the ground have managed to avoid negative effects of an agrarian reform. They sell the ground to associations or cooperative societies is more dear, than would receive at экспроприации, but below a normal market price. Associations, cheaply getting the fine ground, partially compensate costs on capture and strengthen the rights a little. To the military government there was no political sense to clamp those cooperative societies which it extolled as means of achievement of social changes.

In 1976 the state itself has connected to itself hands. Then the law forbidding экспроприацию the agricultural grounds under city construction has been passed. Owners of the ground thereof had a fertile period for negotiations about sale of the ground, and at внезаконно - a stock of time to be organized. The same year the state has reconsidered national building rules, for the first time having allowed to conduct construction on the ground stage by stage, with observance of more simple rules, than before. It has allowed associations and cooperative societies to create the areas of building and to erect houses on the lawful bases, not raising suspicions that the ground is borrowed illegally.

So the largest has begun for all recent history of Lima boom of buying up of the agricultural grounds and city construction. Ruined by the control of the prices subsidized by import, absence of the guaranteed property rights over rural areas, peasants for which benefit the agrarian reform was carried out, sold the ground to associations and cooperative societies the same as before it was done by land owners - contrary to an interdiction of the Law on an agrarian reform.

внезаконный the method of reception of the landed property for housing construction is not less combined by the second, than capture. In this case the future поселенцы first of all create association of housing construction or cooperative society, define a site of the agricultural ground suitable for construction of new settlement, make out the contract with owners of the ground, connect together critical weight of people and the sufficient sum of money and even play violent capture.

According to Institute, in 1985 have in such a way got the ground of 269 organizations: 105 associations for housing construction, have attached 86 housing associations and 76 cooperative societies to city by means of such illegal receptions about 3400 hectares of the agricultural grounds. It nearby 34 million м<sup>2</sup>, or approximately half of area of young city-new building. At least 60 % of settlements have been created by associations and cooperative societies after an agrarian reform and if former rates of growth will be kept such way of development of territories becomes prevailing model внезаконной buildings of capital.

In practice there are small distinctions between newer внезаконными settlements and that have resulted from capture. Distinctions consist that the

governments often agree to recognize as " new cities " or " окраинными settlements " those groups which actually are associations and cooperative societies. A difference between the last to define hardly as it is reduced to legal subtleties. Associations and cooperative societies are legal persons who arise before sale of the ground and even before imitation of capture. However the legal status and their internal organization are various. Associations for housing construction and cooperative societies use tax privileges and thereof are a subject to the control over various governmental bodies while housing associations are not supervised in any way as have no privileges.

Summing up, it is possible to tell, that the sweeping change of rules of possession of the agricultural ground in a combination to other changes in laws has demanded new receptions of purchase of the grounds under city construction. Result became secret agreements between associations and cooperative societies, on the one hand, and owners of the ground (initial or received it as a result of an agrarian reform) - with another. In such a way it was possible to involve simultaneously in city construction the ground on which the law forbade to build something, and to avoid экспроприации the grounds.

### **Illegal brokers under the real estate**

In illegal sale of the agricultural grounds professionals appear involved in greater degrees, than in capture. The group, организующая association or cooperative society, often consists of representatives of the business world, capable to collect difficultly accessible information necessary for the organization of the such transaction. These "speculators" in practice are illegal brokers under the real estate.

The first problem of the illegal broker - to connect the offer and demand. For this purpose it should create association for housing construction, housing association or cooperative society. Then it needs to find suitable for construction a site of the ground. It is complex: the transaction manages dearly, and it is necessary to collect before the certain information, and then to submit to its consideration of the future поселенцев.

Functions of the businessman include negotiations with owners of the agricultural grounds. It is rather artful problem as the parties should agree not only in occasion of a site and the price, but also how they will hide the transaction. It is necessary to involve in business of representatives of authority.

Further, illegal brokers, as well as at violent capture of the ground, should collect the critical weight of participants necessary for the organization of the transaction. It is necessary to find and reveal the general interests of potential participants. The broker should make sure, whether participants are ready to defend the property right at the beginning when attempts to apply to them force are possible, or at least to live some time in sheds and tents; further, whether they are measured to build thoroughly, including - to participate in construction of an infrastructure; and

the last: whether they will make the rallied group capable to peace cooperation. With necessary technical assistance the plan of building is developed. Opportunities of the prompt carrying out of the water drain, an electricity and roads are studied. Services of professional architects and designers can be offered to members of association or cooperative society or standard plans of dwellings, or.

As soon as рекрутировано sufficient number of participants the sizes of individual payments also are established, brokers collect money for purchase of the ground, finish the transaction with owners and think over the organization of capture during the coordinated period. As the law forbids to owners sale of the ground, and it is forbidden to cooperative societies and associations to use the agricultural ground under city needs, there is a risk of the governmental intervention. To avoid it, illegal brokers dramatize capture: in the established day the future inhabitants throw out a landing, set up national colours, hang out mats and маты and other, - all as in a life.

Brokers do not render free-of-charge services. They receive a part of money from payments of members of association, and also have the right to any number of sites of the ground which they will sell when the settlement will be created also the price of sites will increase. It causes the hostile attitude to brokers from authorities, incessantly their pursuing. But from it importance of work of illegal brokers, разумность decisions accepted by them do not decrease. Any person separately is not capable to sustain costs of illegal ground operations, therefore future поселенцам services of professionals which incur the organization of cooperative societies and associations, as well as other preliminary efforts are necessary.

### **Evolution внезаконного housing construction**

Mass character, political intrigues and exchange of services promoted gradual development внезаконных settlements. More precisely to describe this process, we have allocated ten historical stages in the description, each of which shows, how official structures prepared for ground for внезаконного housing construction.

### **Occurrence внезаконности**

**Authorities have created space for внезаконности when to the first decades of this century have gone on infringement of the laws adjusting city construction, and have changed the general rules for system of class privileges, bribes and other secret frauds.**

**Approximately quite legal building of inhabited quarters on the grounds of former manors or manors, first of all for satisfaction of housing needs of the maximum and average classes at that time began. So areas Lins (1921), Hesus Maria (1923), Magdalena Въеха (1924) and the Dignity-« (1926) were built up. At realization of these projects builders, land owners and contractors**

**have executed not all requirements of numerous laws. Sanctions have been received not all, the part of public buildings has remained not completed, building was conducted not in a complex, transactions, doubtful from the point of view of the law were carried out. In other words, traditional projects appeared, as a matter of fact, quite **внезаконными**.**

**Later, prior to the beginning of a massive migration, the same builders have started to erect quarters for common people. Thus recently got skills were used, i.e. construction was conducted with deviations from laws. Has been reached about a modern level **внезаконности** constructions.**

*The contemporary of those events Карлос Альберто Исагирре wrote about it:*  
"... any of the concluded contracts does not provide transfer of the property rights. Such contracts allow, however, to the buyer to build on a site as to it will take in hand. It has appeared enough that along bogs, on a place of decaying ruins, there were thousand the houses which were not meeting even elementary requirements of hygiene, without plumbing and sanitary. **Немощные**, streets not having sidewalks are filled up by heaps of stones. Each corner and each waste ground become public toilets. In the middle of all it " the tenant " site (as under the contract it is not the owner) does clay bricks or buys them if cannot do itself, And little by little, by means of the wife and children, evenings, after work builds the house, the refuge from rent system " [Карлос Альберто Исагирре, *La Logislacion at la Комправанта де Лот де Urbanizaciones* (Lima: *Компаря де Эмпрезиион ат Пюблиддад*, 1943), стр 307 - 308].

If we did not know, that Исагирре described early stages of construction of areas Chorilos, Чакра Colorado or some quarters of area Rimak, we would think, that it describes the beginning of building modern **внезаконных** settlements.

Authorities nevertheless tried to interfere with business. In 1915 Provincial advice has accepted the decree demanded reception of sanctions to building and forbidden sale of sites there where the base infrastructure is not created yet. Seven years later, on October, 6th, 1922 when it became clear, that these requirements are not executed, president Au densely B.Legija has published the decree once again emphasized, that the infrastructure should exist before sale of the ground. In two years, in 1924, the same president has promulgated the countries of a rule adjusting city development first in history. It was attempt to order laws and to provide their execution. In 1928 same attempt has made the Congress, having approved two laws which emphasized the obligation to create an infrastructure before sale of the ground and defined the order of the state intervention.

The failure of the decree 1915 was followed with failures of the decree 1922, rules 1924 and, at last, the law 1928 the Increasing attention from authorities - all over

again municipal, then executive and, at last, legislative - testifies not only to growing concern of the state in this problem, but also and about an inefficiency of the measures undertaken for its decision.

The government eventually has lost patience and in September, 1931 has declared, that all areas - belonging the maximum, average or lowest class, - in which city civil work demanded by the law have not been executed, are considered rural so - to city of the attitude have no. In other words, quarters Dignity Исидро, Hesus Maria, Чакра Colorado and Манзанилло were, among other, houses and the structures erected there, nonexistent are declared by rural areas, and. Certainly, this declaration of the government has remained without consequences.

Later began possible to agree about applicability of the state laws, but their compulsory realization could lead to only full divergence literally with their each position. The figures of legal business possessed necessary political influence, economic opportunities or the social status, all over again agreed with authorities about a urbanization of inhabited quarters for the maximum or average classes, but under impression of the received profits have decided to build and sell inhabited quarters and for people. Less all thus reckoned with the letter of laws or rules. Arrangements between officials and the businessmen interested in construction of such quarters mattered only. These arrangements became the new law for the participating parties. It is possible to tell without exaggeration, that everyone, having necessary political influence, economic opportunities or the social status, could ignore the law.

Inhabitants of Lima were disturbed obviously not too with such position. Lima was rather small city with the population nearby полумиллиона the person, and nobody could foresee, that lawlessness is capable to become a problem which will transform bases of a society. Builders also did not suspect, that the way found by them to agree about the order of works and about non-observance of separate rules at increase of waves of migration of Peruvians from villages in cities will be picked up and in a big way developed *внезаконными* by builders; in the name of " an aggravation of contradictions of system ", being expressed, a usual *марксистско-ленин* slang of the extreme Left propagandists.

### **Recognition through resettlement**

Having got to Lima, migrants to the full used benefits of that laws *растяжимы* and to their infringement all have got used. That the first quite *внезаконные* operations have coincided with boom in construction which in due course has overturned all century traditions was convenient also. [researchers miss in definitions of date of occurrence of the first informal settlement. According to research 1959, the oldest settlement concerns to 1910 Later Xoce Maroc plot 1924 Rather recently has named date of the first settlement was offered to consider such date 1906 In a number

of researches by the oldest **внезаконным** settlement in history of republic suggest to consider the city of Sullanu which existence has been recognized by the certificate of the Congress after capture of state Zujana in 1839 Any attempt of such specifications represents cleanly academic interest as prior to the beginning of a massive migration number of inhabitants in such settlements was obviously insignificant.] The second historical stage has come, when the state has indirectly recognized the expected property right, having incurred the responsibility for carry of the some people **внезаконных** settlements.

Decades from the end of 20th years up to the end 50 were the period of gradual captures of the ground. There where there were some barracks of agricultural workers, a roadside tavern or thrown **старательский** camp people and dwellings started to be multiplied. Hills near the center of Lima, old gardens, coast of irrigational channels, even dumps - were gradually occupied. From the beginning of 20th years the city began to be overflowed with people, but nothing was done to facilitate it process of reception of the ground. The answer was occurrence **внезаконных** settlements, and the state little by little had to recognize gradual capture as a way of purchase of the property. (to 1960 from 157 suburbs of Lima 130 have been populated gradually, and only 24 were result of violent capture.)

The first indirect recognition has come as a result of act of nature when the destroyed settlement has been transferred on the public grounds. In 1915 on a shallow of the river Rimak construction of the settlement known under name **Кантагало** has begun. In the beginning 1932 as a result of flood of the river the part of settlement has been destroyed and its many inhabitants have suffered.

Authorities, before simply ignored small and sparsely populated **внезаконные** settlements, have appeared before a problem of comprehension. Having risen before a dilemma, the government **командора** Sanchez Serro, which tried to be sympathetic to needs of people to show the difference from **свергнутого** to them Augusto B. Legija's governments, and thus meaning rivalry with an arisen Revolutionary alliance of American people (APRA), - has decided to move temporarily suffered from flooding in area **Serro Dignity Кристоаль**. The area has received name **Летиция** - in memory of the conflict which has arisen between Peru and Colombia approximately then because of city on coast of Amazon with the same name. First inhabitants **Летиции** lodged at **подножья** hills, the following - it is a little above and so yet have not borrowed all area. Thus, the population of settlement was made partially by the immigrants, partially new newcomers. The decision of the government of Sanchez Serro was a rotary point as for the first time the state has recognized for inhabitants **внезаконных** settlements of the right which are a subject to protection and even compensation for the state account.

It is obvious, that the organization поселенцев in that kind as they have appeared later, in those days did not exist. As resettlement has been made officially, inhabitants felt relative security of the rights to the ground and did not require the organization for their protection. Moreover, as then there was no especial hope for reception of city convenience, to inhabitants there was no sense to create the similar organization.

The episode with Летицией has shown people that there was внезаконная an alternative of a life in slums. To 1940 внезаконные поселенцы have already won for itself small vital space in city: from everyone 100 houses constructed that year, 4 it has been constructed внезаконно and 96 - legally.

### **Political recognition of aggressors**

The third stage was marked by that various political groups have started to compete for sympathies and support of inhabitants внезаконных settlements, promising them if not an official recognition of their property then that they will not be moved. First APRA, then Manuel A. Odria and, at last, in 50th years of policies and journalist Pedro Белтран have made внезаконные settlements and their inhabitants the major participants of a city life. Since then any government, any political party could not manage them.

The quantity of "aggressors" after 1940 constantly accrued, though settlements have not been densely populated yet. Movement has sharply amplified after earthquake 1940 which has destroyed a significant part of city and has aggravated need for habitation. So, for the present not so significant внезаконное housing construction has started to raise growing interest of politicians, especially since that time when weights of the people unsatisfied with a state of affairs and demanding improvements became appreciable. Some politicians have addressed to inhabitants внезаконных settlements for support, offering them the every possible blessings, but there was a concern among those who has understood, that these weights potentially революционны. Representatives of an official society have suddenly seen in these people who before considered only as the impudent fellows who have occupied city suburbs, simultaneously both threat, and chance: threat of possible civil disobedience and revolt, both chance to receive a voice and political support of new voters.

»«Внезаконные gradually realized a generality of the interests and an opportunity it is favourable to use the voices on elections. Politicians have offered them a recognition in which the law refused. The basis of mutual understanding was clear: поселенцам it is necessary to stop reprisals against itself and to improve the positions at negotiations with authorities; politicians require expansion of support to win elections or to enlist supporters for revolutionary changes. The output on a political arena has given внезаконным to inhabitants of Lima an opportunity to negotiate

with authorities not only for the termination of police prosecutions, but also about granting of city services by it, about support and even a recognition of their rights to the ground.

Conditions of an exchange were in favour of *внелегальных поселенцев*, as they never felt in a duty to politicians, which patronized them, whereas the last should be rendered services by advance payment to receive though any support. Generally speaking, migrants always considered the political unions as some kind of the tool. As a result though from time to time also could seem, that certain politicians use sympathies of the new townspeople, but only at first sight. Politicians did not manage to keep for a long time this support, it was always proportional to that politicians could offer them during any given moment.

Such attitude influenced and election of leaders *внелегальных* settlements, and for the term of their stay at authority. As a rule, supported those who had or could get any access to governmental bodies quickly. When it was found out, that the leader has lost or has not adjusted communication, it immediately discharged of affairs. The first significant wave of politically organized captures of the ground has coincided with election in 1945 the president of republic *Хосе Луиса Обальде*. There can be it has begun one year prior to its official introduction into a post. By then from everyone 100 houses in Lima, 15 were under construction *внелегально*, 85 - legally. APRA, thrown all influence among voters on support *Бустаманте*, was the obvious enemy of the existing order. Initially marxist on spirit, this party has created the incorporated organization which within the limits of movement to the class consent in Peru applied for representation of interests of arising city groups. As a result this party almost instinctively sympathized *внелегальным поселенцам* and saw in them potential base of support of the political ambitions and revolutionary plans. Operating through the trade-union cells, the party has helped to organize a number of violent captures. Other left groups have followed the lead APRA. The desire to become spokesmen of political interests of inhabitants *внелегальных* settlements has forced them to consider captures of the ground as certificates of struggle for social justice.

This form of participation in a political life has appeared very productive during the constitutional board of president *Bustamante*. At presence of political support, the police could not turn out people from the grasped ground though attempts to stop this practice was more, than before. Participation of politicians has made intervention of police inefficient, and a popular initiative - allmighty. And *внелегальный* the sector expanded. To 1948 when president *Bustamante* has been displaced by general *Manuelem A. Odria*, from everyone 100 new houses of Lima 19 have been constructed *внелегально* and 81 - legally.

General *Odria* has declared itself the president and-has entered in rivalry with APRA and the left marxist parties for political influence in *внелегальных*

settlements. Being Minister of Internal Affairs one year prior to revolution, Одриа knew a problem not by hearsay and could invent strategy how simultaneously to secure with sympathies of inhabitants *внезаконных* settlements and to satisfy the influential groups interested in preservation of the status quo. At that time the basic reception *внезаконных* was still gradual capture of the ground though also violent captures as a result of which there were more and more densely populated settlements already became frequent. The main thing from them was the Dignity Martin де Попрес, originally called " Area of industrial workers it. On October, 27th " - in honour of date when general Одриа has seized power.

Owing to mutual relations and communications with common people, the mode of general Одриа could offer a society loyalty from *внезаконных* settlements. The government used an opportunity to give the rights to the ground that, not bearing serious charges, to reduce danger of political disorders. In exchange for each certificate of help Одриа got hardly greater political support, and even the neutral attitude from pragmatically adjusted inhabitants of settlements.

The policy of general Одриа was also on a hand to city and rural land owners. Supporting creation *внезаконных* settlements, it promoted settling of city suburbs and liquidation of slums in city centre on which place there were new houses and shopping centers. It conducted to increase of the prices for the ground and it was favourable to owners of the real estate. Such policy indirectly encouraged migration, and, means, promoted preservation of traditional way in village that was to favourably rural land owners. Some experts interpreted a policy of city construction during this period as the considered governmental strategy, had for an object to involve to Lima the most part of the most persevering and enterprising people to soften conflicts in village. Encouraging capture of mainly state empty grounds, mode Одриа has disseminated fears of private land owners. At it the program of construction of the inexpensive dwellings, conceived also has started to be carried out at president Bustamante for reduction of social intensity.

City bottoms approved policy Одриа as owing to favour of the dictator their chances of reception of habitation have grown and the expected property right has become stronger. By estimation of David Kolera, in board of general Одриа only in 15 % of cases capture of the ground caused intervention of police and only in 10 % of cases behind it exile of the aggressor follows. In other words, 9 of everyone 10 captures have been doomed to success. According to the same Кольера, there was a silent arrangement between government Одриа and leaders of aggressors. Certainly, meetings with the president was not, but there was a dialogue with representatives or leaders of its political group. The fact, that similar meetings and negotiations took place, showed *внезаконным*, that they - not only desired base of support for such political forces as APRA and the left marxist parties, but also a possible source of "legitimacy" for a dictatorial mode of general Одриа.

It is necessary to note, however, that mode Одриа never completely relied on support велегалов, probably, памятуя that they supported APRA and then have turned away from it as soon as it has lost authority. Одриа used патерналистский the approach and never offered велегалам the property rights to the ground, holding that them depending on the state and forcing to more long loyalty.

However opponents of the government have not allowed it to monopolize this political space. As early as in 1954 when already 28 from everyone 100 apartment houses constructed in Lima, belonged велегалам, Белтран has inspired capture of settlement Sjudad де Диос and has described it in newspapers " Ла Пренса " and " Ултима Ора ", - is possible, in peak to mode Одриа. The purpose of the publication was struggle for mass support and attraction of attention to the crisis of cities created by invasion of migrants. Planning of capture was carried out by employees Белтрана in a printing house of the newspaper " Ла Пренса " owing to what they have got political support of its friends, journalists and printers. Four years later, in board Manuelja Prado, to be exact - after purpose Белтрана as chairman of Ministerial council, it has continued efforts on construction of habitation for people, this time in the form of cities-satellites - as the sample of the urbanistic future of the country.

But to change the order of things was already late. To 1961 when Белтран has left the government, велегалами 100 houses of Lima have been built 41 of everyone.

### **Legislative recognition**

The fourth stage has begun, when laws for the first time have recognized existence велегального housing construction and settlements, and the society has made an attempt to regulate its frameworks of exclusive rules.

Active participation of politicians and growth of settlements should lead to any result as became more and more obvious, that use of violent capture for rendering pressure conducts to fantastic waste of social resources. An output became the lawful recognition of existing settlements which are taken place in February, 1961 with acceptance of the Law 13517. 16 more years played rather modest role back, велегальные settlements became a subject of rough debate in chambers of the Congress in which political parties participated all.

To the law 13517 the role of new start was allocated. It has legalized the settlements existed for a moment of its acceptance, has allowed to fix formally to inhabitants the rights of possession and has formulated the perspective governmental policy in the field of city construction. However each of these concessions was accompanied by rather unusual conditions.

Though the Law also established, that in national interests it is necessary to transform, arrange well and legalize велегальные the settlements existed for September, 20th, 1960 (that meant the organization of water supply, the water drain

and cleaning of dust as a preliminary condition of legalization), it simultaneously tried to impose to them the same rigid standards which operated for all other city habitation. As a result it has not been made even attempts to solve a problem of capture or access to habitation, and all was reduced to promotion of conditions, to which needs to correspond to obtain an official recognition. In the Law 13517 it is necessary to see the price established by the state for legalization *внезаконных* of settlements.

Providing access to official possession of the property, the Law simultaneously put forward a number of the extremely discrimination requirements. Under a pretext of protection against speculators, possession in *внезаконных* settlements have been declared inalienable so *поселенец* could not sell, lease or split up the site before the expiration of 5 years after reception of the right to possession. By calculations of Institute, *внезаконным* it was necessary to wait for this law about 20 years so as a whole restriction appeared calculated on a quarter of a century. The property right given eventually was cut down, owners did not receive high-grade access to the market of the real estate so could not on equal compete to high-grade owners of the real estate.

In the similar image the Law, recognizing existence of the organizations of self-management in settlements, did not lay down them in equal conditions with the organizations existing in an official society. On the contrary, it offered obligatory model of the organization - " association *поселенцев* " which should meet with approval of authorities prior to the beginning of functioning. All the organizations created up to 1961, should correspond to this new model. The law interfered with a choice of any other form of management, forbidding *внезаконным* to belong more than to one association, and proclaimed, that during legalization of sites the preference will be given members of legal associations. So the history legal *апартеида* by which the majority of the governmental decrees concerning *внезаконных* of settlements since then was characterized has begun.

And at last, defining the perspective governmental policy, the Law 13517 forbade the future captures, depriving any future settlements of an opportunity of an official recognition and calling the state to undertake actions on its building municipal (or state) quarter of the mass building, called to replace *внезаконные* settlements. However any of positions of this law had no success.

The interdiction on creation of new settlements had for an object to hammer a wedge between old and new *внезаконными*. It was supposed, that otherwise a recognition and privileges for existing *поселенцев* can serve as powerful stimulus to growth of number of new captures. But was naive to think, that the passed Law can change the tendency: in fact for *нелегалов* it meant, that in long-term prospect of

authority are ready to admit the come to pass facts and to legalize **внезаконный** sector.

The selective companies 1962 and 1963 have created new problems. Various political parties have promised an agrarian reform, than have caused a wave of captures of the ground peasants. The effect and in cities where **нелегалы** have already learned to use favourable political circumstances was similar. As the Law 13517 basically has been aimed at reduction of costs on **внезаконному** to purchase of the property and has kept former size of costs for legal purchase, captures proceeded. Many tenants in internal areas of city, hoping, that slums can be classified as **окраинные** quarters, have started to arrange disorders. The militarians who for a short while have seized power (1962 - 1963), obviously, have regarded this civil disobedience as sharp **радикализацию** city bottoms: 47 % of captures in this brief transition period have ended with exile of aggressors.

Greater hopes for liberalization of the state have arisen with coming to power in 1963 Fernando Belonde. The new government, however, has undertaken to put into practice the Law 13517 and has begun the large-scale program of construction of municipal habitation as it became already clear, that the problem cannot be resolved by simple prohibition of new captures. But the program of municipal construction developed not too successfully: for all years after it it has been constructed no more than 16 % of that built illegally. In addition, quality of habitation under this program never completely satisfied needs of new inhabitants of Lima: for example, here granting on 18 м<sup>2</sup> on the person, whereas in **внезаконном** sector - approximately on 25 м<sup>2</sup> on the person was provided. Probably, most important consequence of a lawful recognition was not so much creation of the new order of things, how many occurrence of new stimulus and hopes for reception of the dwelling protected by the law in cities. To 1968, When militarians have displaced president Belonde, growth of Lima already was entirely defined **нелегалами**: from everyone 100 houses constructed in that year, only 43 were a handwork of legal builders.

### **Confrontation with the government**

**The fifth stage has noted been by a political victory **нелегалов** in the first mass collision with the state.**

**By then, when the revolutionary Government of armed forces under direction of (1968-) general Huana Velasko Alvarado has taken 1975 authority, discontent has got mass character. Too many promises have not executed the previous government. Inhabitants already created **внезаконных** the settlements, expected **ощутимой** a government aid, have found out, that this help is minimal; captures proceeded with inevitable victims and violence. Owners of the property have found out, that aggressors cannot be stopped force**

of the law. Politicians and officials were convinced of inadequacy of the efforts. Eventually, intellectuals have declared, that an essence of a problem in absence of structural reforms, but could not define their maintenance.

Militarians have decided to take the bull for horns. Having united with group of socialist intellectuals, they have directly joined in the organization **внезаконных** settlements that up to them did not do any more the government. They have tried to impose **нелегалам** other standard model as a condition of reception of the state help. This model named by " the quarter organization ", created the mechanism of the direct government inhabitants of settlements by means of granting of the technical help by it.

However to limit inhabitants of settlements to frameworks of rigid system it has appeared impossible as their community was more complex and dynamical, than government officials could present themselves. To begin even that **нелегалы** built habitation much more quickly, than it was done in legal sector.

It was accepted to build the second floor above the house to lease it though it and was not authorized by the law. Houses in old settlements were on sale, despite of the governmental interdiction. People were united for construction of roads, sidewalks and reception of services. On all city trade, manufacture, transport have widely extended **внезаконные**. Already it was impossible to shelve the decision of problems of the arising market economy arisen despite of numerous obstacles from the state. Efforts of the government have led to additional growth of the intensity foretold the further confrontation.

As attempt to solve housing problem by means of the program of mass municipal construction has failed, captures proceeded. The military government could not admit it, believing, that is capable to order a course of events from above. As a result during with 1968 on 1970 the police has expelled 79 % of new aggressors. Rigid reprisals have suddenly stopped in 1971 when violent capture has overturned the government physically and politically, has provoked the governmental crisis and has led to a new state policy.

On April, 29th, 1971 mass capture of the ground in Pamplona, in the neighbourhood with college Prechistoj of the Maiden has begun. The college belonged Jesus's to Brotherhood, whose congregation was supported of the assistant to bishop, and later and bishop of " new cities " - Луиса Бамбарена Гастелуменди. Capture which should extend on the nearby public and private grounds and in which took part tens thousand people, is considered the largest for all history.

The military government has ordered to police to expel "aggressors". As a result one of leaders has been killed and many people are wounded. **Поселенцы** have captured the commander of police division and have threatened to kill it if

them will not let alone. For the first time confrontation has reached such scales. Messages on events have filled pages of newspapers and magazines. Capture was considered as explosion of the civil disobedience especially dangerous to a dictatorial mode, represented the spokesman of interests " people and armed forces " and the defender of the revolutionary order in the country.

Minister of Internal Affairs general Armando Artola Askarate which has got popularity during antiblasting campaign, the undertaken army against communistic insurgents in 1965, has declared, that innocent people have been used by leaders of capture for achievement of the rebellious purposes. However it has made a mistake, having crossed swords with bishop Bambarenom who participated in events in the most critical days of capture and has served open-air messу for упокой showers of the leader поселенцев El Salvador Сальдивара killed in collision with police. Minister has regarded a position of bishop as provocative and has given the order on its arrest and the conclusion. The Catholic church has made the sharp protest, and Артола has undertaken counterattack, having organized demonstration " true поселенцев " in support of a position of the government. In the meantime capture has found physical and moral durability as a result of death Сальдивара and supports of church. Бальбарен has been released on May, 13th, and four days later Артола has submitted to resignation.

Capture has been so well planned, that has coincided on time with a meeting in Lima of Advice of managing directors of the InterAmerican bank of development which earlier gave means for development of housing development programmes in Peru. Incident has drawn the international attention and has got to aggressors wide popularity. Besides aggressors extremely skilfully supported interest of an independent news media which on their example have brightly shown contradictions between appeals of " the revolutionary government " to social justice and severe reprisals against aggressors in Pamplona.

For the first time inhabitants внезаконных settlements have appeared are capable to displace the Minister of Internal Affairs concentrated in the hands significant authority and possessed reputation of the strong personality. By way of the compromise aggressors have agreed to move to the areas certain and partially equipped by the government where have created settlement the Country house an ale El Salvador, named so, possibly, in honour of El Salvador Сальдивара. Памплонский capture has changed the attitude of the military government to creation внезаконных settlements. Though the interdiction on the further captures, imposed by the Law 31517, continued to operate, the policy of resettlement of aggressors on the governmental grounds has been accepted.

Authorities, thus, have taken of obviously inconsistent position. Captures continued to remain illegal. But as the government was revolutionary every time

when there was a capture of territories, it recognized, that people wishes to have the ground for construction of habitation and undertook resettlement. That reached the double purpose: the kind was done, that соблюдена legality, and the problems of a urbanization created внезаконными by settlements were eliminated. Such position obviously inspired people on new captures as aggressors have been assured, that the military government will move them in one of " areas of reception ".

Nevertheless capture in Pamplona has strengthened as well desire of the military government to get the political control over settlements. Experience of Argentina and Uruguay on struggle against city insurgent movements has at that time strengthened this desire as as we know, the maximum military command was afraid political радикализации of the population. The dictatorial mode has been compelled to compete with APRA and left for influence and authority above внезаконными settlements as understood, that any government which has proclaimed revolutionary, gets "legitimacy" through expansion of mass support.

Aspiring to prevent succession of events on памплонском to the script, the military government has decided to undertake approach, having created National system of support of social mobilization (SINAMOS) which should become a conductor of a uniform state policy in relation to settlements. The initial idea consisted that it is possible to subordinate to itself settlements and to make their inhabitants operated by means of the program of exemplary settlements in which to inhabitants the ground would be allocated and in their interests the economic activities would develop. The settlement the Country house an ale El Salvador has been chosen as reference/is possible, for political effect: in fact there capture became the reason of displacement of Minister of Internal Affairs. Here the first Homing city community (CUAVES) has been created.

Program CUAVES expressed double aspiration of the government: to create exemplary settlements and politically to operate people. The complex system of the branches operated by secretary, should provide legality and the order, and also to solve problems of formation, public health services, granting of services, manufactures and sales of the goods. SINAMOS, from its part, should centralize decision-making process. In due course all this invention has failed. Both SINAMOS, and CUAVES gradually lost the influence basically because the state could operate inhabitants of settlements only in that degree in which rendered them base services and did not interfere with their economic and social activity. The spontaneous organizations поселенцев are equitable in a much greater degree to interests of inhabitants, than бюрократизированная and the centralized system offered by the government.

Though SINAMOS has gone through a mode of general Velasko, 1976 - 1977 it was engaged only in settlement of legal problems **внезаконных** settlements, and in July, 1978 has been finally dismissed. CUAVES, in turn, and has not reached that level of efficiency on which its authors counted. It has appeared unnecessary when in 1983 the government has translated the Country house an ale El Salvador in a category "district".

Strictly speaking, **нелегалы** have defeated the revolutionary government on all fronts. Despite of efforts of general Velasko to establish the new revolutionary order and to lead all necessary changes, its government was **свергнуто** armed forces in 1975 In it to year 62 of everyone 100 houses of Lima were under construction **нелегалами**.

## **Occurrence of associations and cooperative societies**

The sixth stage has begun, when нелегалы began to use the agrarian reforms begun Веласко, for внелегального transformations of the agricultural grounds in city and have created the second front of construction внелегального habitation.

Though the state with 1950 under pressure of a uncontrollable wave of migration tried to plan development of city, only in the beginning of 70th years when the military government has begun an agrarian reform, official attempt precisely has been undertaken to define city borders behind which the processable grounds are a subject to redistribution. As cities continued to grow, designers have defined areas of city development which included a part of these processable grounds and for this reason were deduced for frameworks of an agrarian reform.

Land owners have been interested in that their ground have included in prospective areas of building. For the sake of it they went on everything, using the political influence, or resorted to bribes. Extensive zones of development of cities, in practice withdrawn of an agrarian reform were instantly generated. The military government overwhelmed by suspicions has ordered to owners to urbanize the the grounds within 5 years. The land owners who are not had opportunities to receive in sufficient volume financing, clientele and building materials, began to address to associations and cooperative societies.

The settlements created as association and cooperative societies up to 1970, were a part of several city areas with a lot of slums. Such settlements in the further arose mainly in agricultural areas. In general, during board of general Velasko of such type внелегальная sale of the ground became the second way to bypass the law.

## **Recognition city**

The seventh stage was marked by that authorities have been compelled to resolve legalization of settlements at observance of the ordered mode of legalization.

In the second phase of board (1975 - 1980) the military government has got in a trap when could not stop, они even to check captures and when associations and cooperative societies have started to buy up illegally the agricultural grounds, using positions of an agrarian reform spent by the military government. It seemed, that building of city has finally come into the hands внелегального of sector.

In these conditions in 1979 also has been accepted the Decree-law 22612г. The new law should become a corner stone in a recognition of the national property as defined, that as soon as settlements finish the process of legalization certain by the Law 13517, they become equal in rights city quarters and, hence, can be qualified as district. Under a pretext of correction of the administrative mistake admitted in the law 1961 which did not establish, what status is received with settlements after legalization, military have carried them in the same category, as traditional city quarters. The new order not only has increased **гарантированность** and stability of the expected rights, but also was equivalent to a recognition of that informal settlements among other things represent a different way of creation of city quarters. Under pressure of the obvious facts, authorities have been compelled to recognize at last, that, contrary to opinion of legislators in 1961, They deal not with any distortions of rules of town-planning which can be corrected by means of bureaucratic procedures, and more likely with the alternative form of a urbanization which expresses aspiration of people to have a private property.

Attempts of the central government to put in the mechanism of functioning of settlements have come to the end with this recognition. The new Constitution accepted the same year, the responsibility for settlements assigned on municipal the governments. To 1979 **внезаконный** the sector has still grown: 100 houses in it to year 65 have been constructed of everyone **внезаконным** by sector.

### **Recognition of a private property and **внезаконных** the organizations**

At the eighth stage of authority have started distribution of the rights to possession and have recognized **внезаконные** the organizations by lawful representatives **внезаконных** settlements. As the responsibility for these settlements was is transferred to municipal bodies, at them does not remain other output how to coordinate the actions with desires of voters, in other words, to give them the demanded property rights. Prompt movement to legalization of a private property has begun.

Eventually the attitude to the given problem varied. Anyhow, but approximately for 20 years - with 1961 on 1980 - legitimate rights of the property have been fixed approximately for 25 % of all sites. In the first 10 years of action of the Law 13517 8000 documents, in 1971 and 1972 - hardly more than 7000 have been issued approximately. However soon work was braked: with 1979 on 1980 it has been issued all about 1000 certificates on the property right.

**SINAMOS** obviously neglected technical work on preparation of documents - plans, re-plannings, etc. so when the reserve prepared by its predecessors, has run low, process has stopped. The system has been more

interested in a public property, than in private about what speaks the following confidential document (" the Preliminary variant of the two-year-old plan on 1973 - 1974 ", for service using):

" the process of legalization described above, influences to a certain extent negatively on маргинальные layers of the population as promotes destruction of family and a society, obviously undermining the high level of social unity reached by these groups at early stages of capture owing to their spontaneous self-organizing. This process provokes the beginning of serious disagreements between поселенцами, that proves to be true a lot of judicial claims in the legalized quarters ".

With arrival of the democratic government it became clear, authorities how much were mistaken. The facts have shown, that people wish a private property, and their sympathy to the socialized model of a community - pure water rhetoric. When in 1980 the municipal government of Lima has been selected, claims on a private property have found political expression. As Advice of capital wished to keep popularity, to provide own re-election and well understood, that voters in внезаконных settlements are especially anxious by destiny of the real estate, it has decided to refuse plans of planting of the ideal order and to give out to inhabitants of the certificate on the property right. Having softened bureaucratic requirements, city council of Lima under direction of mayor Edward Orrego (1981 - 1983) Than 22 thousand certificates, set up that has given out more a record. When on municipal elections 1983 have won left марксисты, headed Альфонсо Баррантесом, Advice of capital tried to continue this activity, but by July, 1986 the marxist mayoralty has given out less than 11 thousand certificates.

Advice also understood, that the organizational autonomy of settlements was one more hope which from year to year was not justified. For the decision of this problem, the Decree 192 defining the status " поселенческих the organizations " has been published. The decree did not order uniform model of the organization of settlements, and recognized the right поселенцев on freedom of associations without the preliminary statement as authorities, assumed granting the lawful status to any form of the associations stipulated by the law, - even to the groups existing de facto. It is important, that the Decree confirmed a recognition of the organizations created for carrying out of captures and other illegal actions.

**On a way to the state based on внезаконном sector**

At the ninth stage the state, having collided with an inefficiency of laws, прибегло for realization of projects of housing construction to внезаконной to system - to captures.

On July, 15th, 1984 7 thousand families have grasped 640 hectares of the ground near to gorge Ajjakan. Capture has been planned, organized and lead by Advice of capital. The majority of aggressors were either civil servants, or workers of the organizations who are difficult for ranking to незаконным. According to our data, first aggressors Айякана have been grouped in 11 organizations in advance recognized by Advice of capital. Two of them consisted of employees of the city and district Advice, one - from employees of National institute of culture to which the ground for archeological excavations was required, the others - from employees of Architectural college. All the future поселенцы appeared anyhow connected with authorities and with problems of housing construction, and it was easy to state to mobilize them.

The delay with transfer of the ground from the ministry of housing construction to Advice of capital has caused irritation of municipality, and it has given green light to capture. The mayor Gigolo Barrantes offended by infinite delays, two months before discussed the given question with then minister of housing and communal services Хавьером Веларде Аспильятой. Last, under certificate Баррантеса, has recognized, that in view of impossibility to accelerate an administrative procedure, capture Айякана - the unique decision of a problem.

That fact, that mayor and the minister leaned all power of the device, have not mastered the established procedures and have been compelled to resort to capture, has clearly shown, that the lawful system not in a condition to provide people with habitation. But, unlike незаконных, employees of the state organizations are not familiar with незаконными rules of capture of the ground.

Through. Week after capture 4 thousand person from settlement Oratsio Себальос led by Хайме Цубьета Кальдероном tried to enter in Айякан and have been expelled after severe fight with первопоселенцами. In August and September these fights proceeded continuously, always coming to an end with a victory поселенцев, supported by Advice. On October, 8th 9 thousand immigrants have appeared involved in other severe fight, this time with application of cocktails Молотова, self-made automatic devices and bombs. Tens have been wounded or crippled, and intervention of national guards was required.

Skirmishes have stopped by the end of October. Angry by defeats, inhabitants of settlement Oratsio Себальос (nearby 3 thousand men, women and children) on October, 27th have started to grasp the private grounds located on

right I protect Ajjakany. There they have erected new settlement and expected to take advantage of all advantages in the form of public works and services which Advice was going to give Айякане. The violence proceeded in November and December. When passions, appear, have started to cease, Хайме Цубьета, the chapter of settlement Oratsio Себальос and the leader new поселенцев, has been killed under mysterious circumstances.

The reason of all this violence was that Advice of capital has not taken in calculation **внезаконную** system. When **внезаконные** plan capture, they act to a basis of a consensus, precisely reveal the general interests, collect the critical weight necessary for practically full employment of the grasped ground, and create system of attraction of new members of settlements, at unconditional advantage of local residents. Captures, thus, have the working logic defining an opportunity of coordination of efforts, designing of settlements, distributions of sites, the organizations of self-defense and legal proceedings, negotiating with authorities why happen usually successful. Unfortunately, having changed spontaneous cooperation **поселенцев** a certain ideal order which as it was thought, will define all the parties of a life of settlement, Advice has killed efficiency of capture and has deformed internal logic of process. Capture was not discussed any more, and approved; As the general interests have not been properly considered, instead of cooperation struggle between people has begun. Besides support appeared only to the organizations recognized by Advice, and the opportunity of cooperation with other parties interested in capture - was rejected. The most significant was that **внезаконность** not only has won lawful ways of action, but also infected them.

### **Unsuccessful suit of associations and cooperative societies**

The tenth stage has been designated by a legislative recognition of illegal sales of the ground as the second **внезаконного** means of purchase of the property for housing construction. Associations and cooperative societies prospered with 1975 As a result of illegal transformation of the agricultural grounds in city with their subsequent sale there were hundreds new quarters with thousand houses. Only in the beginning of 1985 45 associations and cooperative societies have managed to sell approximately 600 thousand м<sup>2</sup> the grounds. For attraction of clients they have organized wide advertising in mass media. As a result the wave **внезаконных** buildings has overflowed valley Римак. Naturally, authorities had to react somehow to it, and they have organized campaign of condemnation in press and have started punishment guilty - imposing huge penalties, closing broker offices and raising suit **внезаконных** brokers.

Authorities understood, that all this in any way does not solve a question on thousand the houses constructed on the disputable ground. Easier to take down houses

and it was impossible to move inhabitants - for the physical, social and political reasons. It was necessary less than in a year to return to former, more free policy of legalization. Having suffered defeat, Advice has requested census поселенцев that " to settle their position " .

On January, 12th, 1985 the Law 24071 has ordered to housing co-operatives to present to 60-day's term the program of delivery to the members of documents on the property right. Though it was a question only of cooperative societies, - it is possible, owing to some political immunity which they use in Peru, - for the first time the Congress has implicitly recognized внезаконную sale of the ground as a lawful way of the order as the property. It was the indisputable victory внезаконности.

Growth внезаконности proceeded. Invulnerability of associations and cooperative societies, and also an example submitted by the municipal government, tried to bypass the law, have even more weakened legal system and have strengthened illegal methods of purchase of the property. In 1985 the number of captures of the ground has increased. According to Minister of Internal Affairs Abel Salinasa, in October of this year there were 282 new captures. In 1985 внезаконный the sector has constructed in Lima 69 of everyone 100 houses.

### **Long way to a private property**

Our researches show, that people are capable of violence over system which rejects them, not because prefer to live in conditions of anarchy that is why, that can create other system respecting a minimum of the rights necessary for the person.

In case of внезаконного housing construction vital the property rights. The history внезаконных settlements is history of struggle for the property right to the ground. Struggle of people for purchase of a private property is clearly reflected in how the designation внезаконных settlements and as their city status gradually raised varied: from "district" (the first official name) up to " young city ", " окраинного settlements " and, at last, " municipal settlement " .

During this process the state gradually receded. Its defeat was shown in change of the establishments dealt with settlements. Between 1957 and 1985 the responsibility for settlements consistently assigned to 11 various establishments on the average for the period of 2,5 years. Thus, внезаконность as which in 1957 considered as business of police, for the subsequent the quarter of a century has proved the invulnerability to the whole сонму the governmental experts and politicians. It proceeded until the responsibility have not transferred, at last, to municipalities.

The basic function внезаконной systems and внезаконных the organizations consisted in protection and strengthening of the won private property, instead of in the organization of system of the collective property. In settlements there is, certainly, a significant and extensive public work, but its purpose - maintenance of necessary

municipal, legal and other services, and it is directed, basically, on an accomplishment of a private property.

Between 1961 and 1981 the number of private houses has grown on 375 %, and the number of rented houses has decreased on 34 %. It means, that people have left village or city slums to have own dwellings in *внезаконных* quarters, and therefore to them the essential material resources for participation in created by efforts of people of Peru is necessary to market economy. Hence, in those areas of Lima where it is a lot of *внезаконных* settlements, percent of habitation in a personal property considerably above, than in traditional quarters. For example, in *внезаконном* settlement Country house Марио дель Триунфо more than 99 % of houses are in personal possession, and in traditional area Brenja - only 28 %. Development *внезаконности* basically has gone on advantage to people with the low income, instead of with an average.

Development *внезаконных* settlements has saved Lima from transformation into continuous slums. By our calculations, not be *внезаконных* settlements, areas Bretja, the Ale-ÑÓ-áñ and Барранко would have, accordingly, on 91, 85 81 % and more inhabitants, than now. The area Rimak would have in turn the population on 45 %-s' more, Magdalena дель the Card - on 48 %, Линс - on 58 %, Сюркильо - on 59 %. Similarly, area La Виктория could have on 32 % of more slums, Мирафлорес - on 25 %, Pueblo Либре - on 17 %. Besides if slums have prevailed, there would be no created *внезаконными* settlements of the real estate for the sum of 8319,8 million dollars a Real estate of slums would be estimated all in 460 million, i.e. only 5,5 % of that value which have created *неформалы*.

Settlements *Vnelegalnye* have proved the indisputable superiority over slums. They have given a push to development of system private, *внезаконного* the property right. This this a theme has taken a place of the absent effective legal mechanisms, capable to adjust attitudes on the enormous areas of the ground for simple people.

*Внезаконная* the system, however, is not neither exemplary, nor desirable. When someone decides *внезаконно* to get the ground, at it very much ' narrow opportunities of a choice. Huge means fly on a wind because of high costs on capture, on *внезаконную* purchase of the ground, and also by virtue of the uncertainty accompanying *внезаконному* the status. The got property rights partly depreciate system legislative апартеида. And the system is unstable, as does not protect *внезаконных* when others try to grasp their ground. Absence of effective legal protection of the property rights fatally for all.

As we shall see in the following chapter, the same is peculiar to all kinds of shadow activity. We live in an expensive society where the opportunities given by the law, are accessible not to all Peruvians.

So, natives of the village, become in city **внезаконниками**, long years went to a private property, on a way subordinated to itself the state and a lawful society. 70 years later, despite of all the laws accepted with 1915, in Lima proceed **внезаконное** housing construction, but not in old areas, and on river shallows, on the grounds of former estates, - in borders of national city.

### **Chapter 3. Внезаконная trade**

#### **Kinds внезаконной trade**

#### **Evolution внезаконной trade**

#### **Campaign to the markets**

As soon as the city was overflow with people, and the free space was gradually borrowed with dwellings **внезаконников**, similar evolution and other kinds of activity has begun. One of them was trade which began to be developed outside of and even contrary to the state laws directed on its regulation. It meant a birth **внезаконной trade**, basically in streets (**лоточники**) and in the markets constructed by dealers to disappear from streets. **Лоточная trade** has begun, when people, not receiving sanctions, not writing out checks and not paying in taxes have grasped the main streets, using with which is opened for everything to sell the goods, to render services and to make commercial transactions. Some of these dealers had the lawful privileges received in exchange for payment of the tax, or "excise" that provided the tolerant attitude of municipal authorities.

**Внезаконные** the markets have arisen, when **лоточники** устали from the defencelessness and have begun to build own markets, not caring about observance of the lawful norms adjusting capture of the grounds or development of sites. Other dealers have involved in this business lawful business or steel its clients, but in any case the markets were under construction without observance of the established rules.

When the Institute has begun research of street trade, it has appeared, that nobody knows numbers of dealers in Lima. The census lead by National statistical institute in Lima in 1976, has given 58 284 street dealers in 29 basic areas of capital. Any projection of these data to next decade would be extremely inexact. Many consider, that was in practice totaled from 200 up to 300 thousand street dealers, and in opinion of authorities, including mayor Alfonso Barrantesa, their number reached 400 - 500 thousand person. Such disorder of estimations has induced Institute to borrow in gathering of own statistics. In January, 1985 the Institute has made new census **лоточников** in the same territory, as in 1976 г.: them it has appeared 84 327 person. In a year, in the January, 1986, new census has shown - 91 455 **лоточника**. Thus, if between 1976

and 1985 the mid-annual gain made 4,6 %, in 1985 - already 8,5 %. Census has shown also, that the majority лоточников is concentrated in poor quarters - 80 % of all лоточников are found out in the poorest 15 districts. Most of all was them in areas of Lima - 21 %, then to St Martin де Поппес and Ла Victoria - on 11,5 % in everyone, the least concentration in the Dignity-í«ÓŃá (0,5 %), the Dignity-¿β¿ñŃ« and Ла-Люмина (on 0,1 % in everyone). Census has shown besides, that 91 455 dealers borrow only 79 020 points, and it means, that the some people are included into companies or work on hiring, - also within the limits of system внезегальных attitudes. Further it has been established, that street trade - специализированна. 59,5 % of existed points traded in the foodstuffs; 17,5 % - the sanitary-and-hygienic goods and 13,7 % - services; and the remained 9,3 % - household goods and the equipment for offices.

At last, census has shown, that 90 % лоточников on age belong to group of economically amateur population, and 54 % from them - women.

All this statistics speaks that the contribution of street dealers, as well as внезегальных поселенцев, in a national economy is rather significant. By estimations of Institute, approximately 294 thousand person are fed with this trade: лоточники and their relatives. Still nearby 20 thousand person indirectly depend on it: employees of those who supplies dealers with the goods. Hence, on each four street dealers one workplace at their suppliers keeps. In total nearby 314 thousand person directly or indirectly depend on street trade.

According to selective research 1985, total sales are rather significant: 6,2 million dollars week, or nearby 322,2 million in a year. A monthly turn of a point колеблется from 431 dollars (maximum) in food trade up to 155 dollars at sale of services. The income лоточников is rather significant. On everyone 100 dollars of sales are necessary 18,3 dollars of the income. The net profit depends on a kind of business: from 74 dollars in a month (dry goods) up to 48 dollars (services). Thus, pure подушевой the monthly income лоточников makes 58 dollars a month, that on 38 % more than a lawful minimum of wages during interrogations.

The quantity of the informal markets also was not known, when the Institute has started research of this question. Their existence simply did not notice, also calculations therefore were not conducted. But all street dealers insisted on existence and importance of their "projects" and mentioned "set" of the markets created by their colleagues. It was represented important to learn, how many such markets and what share внезегальной trade goes through them. Our researchers have found out in capital 274 внезегальных the market and 57 markets - state, that is 83 % of the markets of capital were внезегальными.

The most part **внезаконных** the markets is concentrated in **внезаконных** settlements: 59 % of such markets are in 9 districts with the highest share **внезаконных** constructions, and the parameter increases up to 64 % if to consider number of booths and **палаток** in the markets. By estimations of researchers, in arrangement of these markets the street dealers searched a constant place of trade, have enclosed about 40,9 million dollars We data only on 239 markets could collect. On them in 29 693 booths traded 38 897 person. By estimations of Institute, 125 thousand person are directly fed from this second type **внезаконной** trade. In total, shadow street and marketing provides 439 thousand person.

Such scope **внезаконной** trade, presence of street dealers and their markets practically in all areas of Lima where they first of all supply with food of the poorest inhabitants of capital, and also that fact, that dealers and the markets give work to the big number of people and even provide with it the income on the average on 38 % exceeding official minimum of wages, means, that legal trade should undergo decline, and **внезаконная** to become stronger, before became capable of all this development.

We shall try to show, how it was. First we shall consider various forms **внезаконной** trade and the phenomenon, her порожденные, and also we shall try to consider dominating system **внезаконных** norms and logic of their action. Then we shall explain, how this activity developed, bearing with itself a gradual celebration **внезаконности**. And, at last, we shall track a long way of street dealers to a private property and private business that has found expression and in their aspiration to build own markets.

### **Kinds **внезаконной** trade**

Though **внезаконная** trade shares on two precisely certain categories - street and market, is not rigid specialization, and, more likely, various stages of uniform process. The people coming to street trade, are not measured to remain in it for ever; on the contrary, they dream of a place in the market to be engaged in business in more comfortable conditions. Market dealers began all as **лоточники**.

### **Street trade**

Two kinds of street trade are possible: when the dealer goes on city, offering the goods and services and not having a constant place for trade and when it takes the certain place.

It not new distinction: during colonial times the first referred to " as messengers, **коробейниками** ", and the second - " **лоточниками**, stallkeepers ". We can speak about two kinds of street trade, thus: to trade racing and trade in the certain

place in the street. There are basic stages of street trade through which consistently there passes the dealer, gradually raising safety of the work.

### **Trade racing**

Коробейники buy a small amount of knickknacks, delicacies or not spoiling products and go on streets, trying to sell the goods the passer-by. They do not have certain place, and the scale of their trade is rather insignificant. The income entirely depends on skill to search for clients as it is rather doubtful, that clients begin to search for them. Messengers are not organized, do business only from itself and have no constant place which could protect. They have no significant the capital or access to the credit, and therefore should finance itself and operate basically with cash.

Beginning business, коробейники as though invest in the human capital. Wandering over streets, they learn, what goods are on sale. They see more succeeding dealers who put the carriage always on the same place. Suppliers offer the goods under the different prices and on different conditions. Messengers study at more skilled friends and relatives and exchange knowledge with other beginners. At this street school they learn, that is necessary for people and that how much.

The most favourable routes are defined, simultaneously instead of кошелек and trays there are carriages, which easier, more conveniently and more capaciously. Again and again bypassing the route, коробейники start to distinguish clients and the colleagues moving on close routes. The reputation, and with it not only trust of clients, but also credits of suppliers gradually comes.

Simultaneously new process begins: constantly staying in the street, коробейник reveals the most favourable places, and there is an aspiration to be fixed. Advantages of a constant place where it is possible both to store the goods and to strengthen reputation, are obvious. Коробейник aspires to stability.

### **Trade in the certain places in city streets**

**When the seller leaves trade racing, defines a place and is fixed there - capture of street is carried out. We have found out, that, similarly to внезаконным поселенцам, street dealers grasp territories not casually, and only after complex economic calculations.**

**The first, that the dealer should make, aspiring to secure a place in city street, it to find out value of the given place. It needs possible number of constant clients on what profitableness of a place depends. Propensity of potential buyers to the given place is a subject to an estimation also. It allows to define size of the expected net profit in view of payments to assistants and partners. The income**

**will depend on the price which clients will agree to pay for purchase in the given place.**

**The dealer estimates also other factors: resistance of the shopkeepers who have already located here, possible discontent of inhabitants, reaction of authorities. The first question is solved at a level of preliminary contacts: if resistance of colleagues is too great, the beginner should look for other place. However we have not found out certificates of the big attention to possible reaction of local residents, and that is why: as the dealer grasps a public property (roads, sidewalks) on which anybody obviously does not lay claim, the opportunity of protests is improbable. In the similar image the seller estimates an opportunity of the agreement with other people also extracting the bread in the street. It, in particular, drivers of transport as on crossings of transport routes, and also at final stops many people always gather. Dealers offer the goods to the passengers, expecting transport, and in passing serve drivers, preparing, for example, it food. As soon as the seller was fixed on the ground, all these agreements can turn to the strong union of interests with which both to local residents, and authorities should be considered.**

### **Captures of streets**

Grasping street, the dealer basically operates alone. And capture occurs not at once, and gradually as though the seller checked reliability of preliminary accounting and possible consequences. Therefore here there is nothing similar " to the contract on capture ", as at creation **внезаконных** settlements. Instead of it adjoining dealers conclude after capture of street companionable agreements about **внезаконной** the organizations for own protection and construction of a building of the market in which it would be possible to be covered. Remaining the street dealer, **внезаконник** since this moment ceases to be the messenger and it is fixed on a place. Though it also trades from wheels (as a rule, from the carriage), but does not wander any more from a place on a place. In the carriage only transport the goods in a safe place of storage in the end of day. The dealer who has fixed on a place is surrounded by all means with other dealers. If this new place, success of the first seller will involve others. If on this place already there was a trade, the newcomer will fill up their numbers. In both cases the critical weight necessary for fastening of the given place collects. Sellers understand, that safety, cleanliness, quality and a variety of the goods, and also number of constant clients influence the further inflow of buyers. And all of them are interested in increase in this stream. Here so congestions **лавочек** and the carriages, named by researchers of Institute "beside" or "mini-markets" are gradually created.

Numbers are formed by the carriages placed around of the markets. Examples are numbers around of the Central market and cooperative market **Sjudad де Диос** - two basic markets of capital. Here we see, that dealers try to supplement the market

due to expansion of assortment of the goods and the prices. In the ranks of trade in what is not present in the center. If because of the control of the prices over the center the goods are absent, then offer in the ranks of under higher price. In the Central market the competition *внезаконной* trade has delayed buyers outside, and many sellers use the booths inside of the market only for storage of the goods, and trade in the street. *Внезаконная* trade became so powerful, that it is already difficult to define, that is the center - actually the market or numbers surrounding it.

The second type of accommodation of dealers is the mini-market - group of sellers which form not numbers, and the new center of commercial activity. At census 1986 the Institute has found out in capital of 829 similar new growths. These markets, too large and complex for self-maintenance, offer any conceivable kinds of the goods and services. They can settle down in traditional city quarters, as, for example, markets Takora and *Авенида Авиасьон*. In *внезаконных* settlements where it is usual other markets is not present, they satisfy all basic needs of inhabitants.

### **The special property rights**

When we studied trade on the fixed sites of streets, and especially in the fixed points, we have found out, that here, as well as in *внезаконных* settlements, there is *внезаконная* a system of the rules defining and adjusting this activity. There is a special interrelation between the seller and a place on which it has taken roots, and the certain rights to this place. Laws do not know similar communications as from the point of view of the official right street the drawn game and is opened for public. We have named such attitudes " the special property rights ".

Value of these rights - from the point of view of the seller and the client - that they do possible economic use of public space which would serve in usual conditions only for transport and pedestrians. These rights allow to expand and специализировать trade as fixed on a place тележечник can reserve the goods. Already fact of fastening on a place means, that the seller wishes to be recognized; it also an attribute of reliability. Fastening on a place facilitates creation of reputation at buyers and suppliers. The good reputation facilitates reception of credits, basically *внезаконных*, that opens opportunities for expansion of operations. It is curious, that many legally operating businessmen reckon *внеправовой* with the concept " fastenings on a place ".

The special property right is imperfect, as it *преходяще* and *внезаконно*. It is not comparable to the legitimate right of the property. It even is less effective, than the expected property right in *внезаконных* settlements because streets and sidewalks should remain opened for public using. And, as consequence, above street dealers constantly hangs threat of exile, especially from places of the intense traffic or growing discontent of local residents. Strictly speaking, these rights " do not allow to build the solid pavilions having water, an electricity, refrigerators, кладовки, counters

and all other without what it is impossible to support the certain volume of trade. Creation of such convenience as toilets, parking or squares in the developed conditions it is practically impossible.

Ущербность the special property right it is visible and in those receptions by means of which sellers fix or sell the places in streets. The Exclusive right to a point is result of long and constant trade on one place. The more beside, the the exclusive right of the property strengthened by affinity and a generality of interests is more effective than sellers.

The exclusive right is reached by stay in the given place and often includes the by turns trade so within day on one point different people trade. Usually, for example, if in the early morning the point is borrowed by the seller of ready breakfasts, and in 9 - 10 mornings on its place take up the seller of juices who at midday is replaced by the seller of a lunch who at 4 o'clock p.m. is replaced by the seller of medicinal grasses, and it, at last, the seller of dishes of the Chinese kitchen and remains there up to the end of day. The by turns trade allows to use the carriage as the big shop, that sharply raises its commercial value. Each single dealer can offer only small set of the goods and services. When the congestion тележечников does not improve trade, attempt to diversify the goods is undertaken, adapting the carriage to needs of day, round the clock using, thus, commercial value of the given place.

The opportunity of sale of a point also is limited ущербностью the special property right: selling a site of street to other dealer, it is difficult to give a guarantee. Strictly speaking, the street belongs to public who never will refuse the property, and to sell the right of economic operation of space is possible only. Therefore such transaction requires something greater, than the hand-written document: the interested parties should secure with the consent of other dealers taking the given place. We have found out, that for this purpose the seller of a piece of street represents the buyer as the relative, the friend or the fellow countryman to other dealers. The organization of dealers consolidates attitudes, the mutual recognition of dealers is replaced with membership in the organization, and in due course payment of payments and observance of rules.

All this also makes внезаконную the system compensating to dealers absence of legitimate rights of the property. For an estimation of commercial value of these rights to street space, we have studied small sample of the major places of a congestion of street dealers in January, 1985. According to sample, the average price 1 м2 the brisk street made 164 dollars the Average point the area 4,3 м2 was on sale for 705 dollars Was found out, that in vicinities Плаза Дос де Майо some points the area 3 м2 were on sale at least for 1 thousand dollars

The fact, that a place in the street has the price, speaks about fidelity of calculation of the first street dealers, that for clients stability of the offer of services is important. So when the dealer buys a point, the price testifies to its value for clients.

Similar operations can be based only on *внелегальной* to the system developed by dealers. But also this system obviously contradicting requirements of the law, does not give dealers of necessary guarantees. From here attempts to obtain any additional recognition of the special property rights from authorities. For this purpose is better to pay the tax to municipal authorities. In 1985 all areas of Lima, except for the *Al-BÑÓ-ñ*, La Molina and Dignity *Исидро*, raised such tax and considered, that it does not give any right to roads and sidewalks, but provides the sanction to trade in territory of municipality. The result has appeared absolutely the return as dealers have received the extremely important element of safety and stability for the special property rights. That is why they so are interested in payment of this tax and willingly show receipts on payment. They consider, that that recognizes their rights. It is amusing, that such interpretation also inhabitants, and even easy enough accept authorities.

Authorities rather also are rather interested in this tax as street dealers pay with 1 кв. The m is more, than others. In February, 1985, for example, the size of the tax changed from one up to 18 cents day at average hardly less than 5 cents. In area San Juan de Мирафлорес, consisting only from *внелегальных* settlements, street dealers paid on the average from 1,42 up to 4,26 dollars for 1 м2 in a year. The same year for usual shops the tax made only 72 cents a year for meter. Street dealers actually paid on 98 - 495 %-s' more, than stationary shops.

According to Institute, the income of this tax was one of the most important for municipal authorities. In total it has brought in 1984 on 70 % greater profit, than the tax from official dealers, and has made 29 % of a total sum of the tax to the property, raised with dealers, industrialists, financiers and owners of the lawful real estate. This tax is the important means of strengthening of the special property rights just because it is favourable both to street dealers, and authorities. Dealers pay it because it gives them some degree of stability and security, and authorities raise it as receive the greater income from square meter, than if the same dealers were officially registered.

Incomes of sanctions to trade allow to explain, why regional authorities at which all other tax revenues selects the central government, have reconciled to expansion *внелегальной* trade.

### **The organizations for self-defense**

As soon as street dealers start to understand, that their shops represent the certain value, at them the aspiration to protect them as the special property rights sufficient protection are not amplifies. Therefore there are democratic enough organizations of self-defense, which primary goal - to protect a shop from possible encroachments from other dealers, local residents and authorities. Force can be if necessary used, the way of the decision of acute problems through negotiations however is more typical.

Street dealers have learned to involve national guards or a municipal police for protection of the territory against aggressors. Луис Паредес Финильос, one of their most appreciable figures and leader Plaza Dos де Майо, is considered the first who used police for protection of the special property rights. Speak, that when Паредес for the first time прибег to forces of protection of the law and order has casually suffered itself: the police, expelling new dealers-aggressors, because of a mistake in conditional system of signals has beaten also it. Among friends it has received nickname Гильотен for it - named the inventor of a guillotine who, under their data, has fallen a victim of own invention.

That fact, that the point has got economic value, induces the organization interested in it to keep order and cleanliness. The point should look as a place, capable to guarantee quality of the goods and services. Some organizations have developed receptions of settlement of conflicts between внезаконными dealers, and also undertake creation or the control of system of the by turns trade that is good for expansion of assortment of the offered goods.

In due course, when authorities have noticed this problem, have entered dialogue and even co-opted leaders of the organizations of self-defense, functions of the last have extended. They spent demonstrations of political support, mass campaigns for cleanliness of streets to cajole city authorities, participated in fairs, political actions, and the some people have adjoined parties or movements.

But even the most refined organizations of self-defense are structurally insufficiently strong. The institute was convinced, that dealers participate in the organizations while feel threat to the special property rights, and as a whole prefer individual benefits collective. Therefore separate dealers leave the organizations when it is favourable. The nature of their fidelity to leaders is pragmatic enough. As the basic care - more reliable protection of the special property rights, leaders with enough of political and bureaucratic contacts are necessary. As soon as to authority new people, dealers come, not reflecting, choose other defenders having necessary contacts to new politicians.

These organizations exist basically at two levels: trade union or association - and federation. (it is curious, that the organizations of fine proprietors create trade unions only because traditional enterprise associations have not accepted them to themselves - unlike Left-wing parties. From here - proletarian terminology.) the organizations of the first level are insignificant and consist, as a rule, of dealers of quarter or a vicinity. These are democratic enough bodies calling by associations or trade unions. Decisions are accepted on general meetings, and the selected agencies realize them.

As the purpose of the organizations - protection of territory and definition of claims on the property, their activity and value depend on external circumstances. Swoops from the state bodies, or other dealers (внезаконных or legal) happen

cleanly local, and only in these places sellers have a stimulus to be united. It is possible to draw a conclusion, that such organizations exist only at presence of the certain problem. Their opportunities are limited first of all by lack of imperious powers:

leaders cannot, for example, to force to pay obstinate dealers for installation of the sanitary-engineering equipment, storehouses, etc. As a result it is rather complex to improve conditions in places of trade and to lower discontent of inhabitants.

At a federal level the organizations of several areas are united. The scale of their activity is wider, though number is insignificant. Not having sufficient forces, they, similarly to trade unions and associations of dealers, mainly only react to attacks and undertakings of authorities, and under own initiative undertake nothing. Despite of ambitions of some leaders, these associations have no influence on separate dealers and can coordinate only efforts of the quarter and regional organizations at reflection of external attacks, carry out negotiations with authorities, etc.

In due course two organizations have got the importance: Federation of street dealers of the Central market and adjoining streets (FEVACEL) and Federation of street dealers of Lima and Callao (FEDEVAL). These associations two clearly различимые represent the tendency. The first - the professional, politically independent union, over the second supervise марксисты. Both have played the important role evolutions внезаконной trade.

### **The informal markets**

**The second type внезаконной trade is presented by the markets, внезаконно the constructed dealers or for them. The desire to leave from streets is caused by aspiration to expand business. Long-term investments in the street property are irrational. Efficiency of trade also is insignificant, as possible in the street the range of the goods and services is extremely limited. Dealers cannot grant a loan and do not provide repair or replacement bought. They are not capable to check quality of the goods and do not give to clients of the special information. The weight of inconveniences is caused with absence of warehouse and systems of protection. Therefore it is impossible to trade in the complex goods demanding granting to the buyer of additional services.**

**All this pushes leaving from street and to replace the carriage with a market counter, and the special property rights to make more guaranteed.**

### **The markets and fairs**

The institute has found out in Lima 274 внезаконных the market: 63 % have been constructed by street dealers via the organizations and 28 % - usual builders under the order внезаконных or for sale by it. We do not have information on the

remained 9 %. As a whole, these markets build quite thoroughly, equip with refrigerating machineries, warehouses, trading секциями and сантехникой.

17,2 % внелегальных the markets of city are located to San Juan де Луриганчо. After there are areas Lima, Комас and St Martin де Попрес, numbering 11,3, 9,2 8,4 % and the markets accordingly. On the other hand, in Magdalena дель the Card, Мирафлорес and Dignity Борджа only on one market, and in the Dignity-¿β¿ñÓ«, Hesus Maria and La Molina of any. Внелегальные the markets serve, apparently, the least safe areas: more than half from them (152 if to be exact) are located in внелегальных settlements.

The state tried, though and unsuccessfully, to participate in this process. It has managed to construct in total only 57 official markets - on one on five внелегальных. This break is even more if to consider the period in 20 years (with 1965 for 1985): внелегалы then have constructed in 12 times more the markets, than the state. Внелегальные the markets are located much more conveniently for poor, than state: 36 % - in "official" Lima,-28 % - in Коно Норте, 20 % - in Коно Эсте and 16 % - in Коно Сур against 86 % of the state markets in "official" Lima, 9 % in Коно Норте, 5 % in Коно Эсте and their full absence in Коно Сур.

In view of modest successes of the state in construction of the markets, municipal authorities in 1981 have begun to create markets to clean dealers from streets. Markets were constructed hastily: an assemblage of the small stalls collected from boards and reed it is matte. The state has tried to interfere directly with activity of dealers on these markets, having entered the big number of restrictions on use and transfer of stalls. Such transactions, naturally, were all the same made, but behind a back of authorities.

Despite of political support of authorities, a role of markets in внелегальной to trade it is small. While on внелегальных the markets traded 38 897 former street dealers, on markets - only 7150. Comparison of capital investments also in favour of внелегальных the markets: on their construction it has been spent 40,9 million dollars, and for the device of the state markets - only 85 thousand dollars Even if to add here 405 thousand the dollars enclosed by dealers in furnish of the stalls on markets and then the difference remains enormous.

### **The providing organizations**

With the advent of внелегальных the markets - any more so much new forms of the organization of dealers were necessary for protection of their rights, how many for maintenance of their interests also. With this purpose the group of the quarter organizations forms association or cooperative society for collecting means for construction of the market. Such associations have precisely certain problems in business of financing and management that does not happen when the sense of association is reduced to protection against authorities or to negotiations with them.

Stability of problems does associations by more active and initiative formations, than groups of self-defense, they are rather democratic also their structure more widely.

The purpose of these associations - only construction of buildings for the markets, they do not interfere with process of trade. As well as in *внезаконных* settlements, these organizations usually take the form of cooperative society. The reason that since 1960 and especially at the Revolutionary government of armed forces (1968 - 1980) the state gave to cooperative societies the special rights, and it became favourable to figures of the black market to disappear and be protected from authorities under such roof.

At construction of the markets there is a set of problems, basically the got property rights connected with the special nature. Especial complexities are not present, when the market is created on the mastered city grounds already equipped by convenience required on the law. If the market is placed in territory *внезаконного* settlements, dealers receive only expected property right, as well as other inhabitants of these places. The fact of that the majority of the markets have arisen in such settlements, means, that dealers charged themselves also with expenses on *внезаконное* purchase of the property.

Reception of the credit for construction of the market is one more problem. Uncertainty with the property rights reduces value of the ground. Inaccessibility and inflexibility of the markets of the capital generate additional costs. Therefore dealers build only with support of, the organizations collected from members. Not time happened, that construction completely stopped because of absence of money. Exist also organizational problems. Private and *внезаконные* associations depend only on voluntary cooperation of dealers. Payments are not paid in time, decisions are accepted with a significant delay. These difficulties are aggravated in cooperative societies as the difference in the sizes of payments is not reflected in a management and management. Members of cooperative society are not inclined to increase payments, time of their right to the additional property do not admit. Around of it there were many disputes: against leaders of the organizations brought an action, premises arrested, there were scandals and other troubles.

As we shall see in chapter 5 " Costs and value of the law ", official rules of construction of the markets more all interfere with access of sellers to legal forms of trade. Therefore the providing organizations should involve huge means for protection of the new markets against possible capture by other dealers.

All these problems sharply increase burden of additional charges for the dealers, decided to leave from streets. Studying of history of 5 markets has shown, that sellers had to wait for the introduction into the property rights on the average about 17 years.

## **Evolution *внезаконной* trade**

Evolution внезаконной trade proceeded under influence of changing circumstances: the mass movements, clashing interests, disputes and violence.

In the given section 13 stages of evolution and expansions внезаконного societies and corresponding compression подзаконного societies are described.

### **Recognition внезаконной trade in a part of city orders**

Representatives of an official society hundred years ago have opened doors for внезаконности, having recognized, that коробейники and лоточники are a part of cultural traditions and customs of city. Внезаконная trade has old history in Peru. In андских colonial cities, and later and in capital of republic, on streets wandered or the great variety of dealers sat at the improvised counters. As historian Migel Kabelleo де Вальбоа writes, инка Тупак Юпанки has ordered to declare on empire, что any interested person can trade is free to move on the country, and interfering by it will be inflicted to severe punishment. The first colonial interdiction on street trade was published in 1594 by vice-king Garcia Urtado де Mendoza, marquis Kanety. Supervision of travellers of XIX century testify to existence of the trade leaded outside of the law and extending together with growth of cities.

The first street dealers were the become impoverished Spaniards or creoles, basically poor soldiers or unlucky seamen, whose racial status provided condescension from расистски the adjusted administration of vice-king. Later other racial groups - metises, Negros, mulattoes - have taken advantage of benefits of the position created by this condescension, and in XVII century Indians have joined them. Centuries colonial authorities, depending on a situation, changed between condescension and reprisals. Condescension consist, mainly, in collection of the tax for the right of street trade. With some breaks this tax operated with 1553 when the written patent of king of Spain to the city of Lima was authorized for using the income of taxes to street dealers. The top of condescension has been reached in 1778 when colonial inspector Areche has recognized street dealers of one of guilds of Lima, alongside with porters, shopkeepers and messengers.

Reprisals too were frequent. During colonial times street dealers were expelled or trade was forbidden at least next years: 1557, 1560, 1580, 1594, 1603, 1614, 1617, 1620, 1622, 1630, 1639, 1670, 1671, 1673, 1690, 1770, 1796, 1798, 1800 1804 and. As was and in days of Republic. In 1850 president Ramon Kastilja has ordered to expel street dealers with Пласа де Армас and to apply, if it is required, force. During war from Chile the armed forces borrowed Lima and headed by Patrisio Lynch, unsuccessfully tried to influence dealers penalties and severe punishments. After 1884 the number of the municipal decrees directed against street dealers, constantly grew.

However in first hundred years of republic street dealers admitted a component of a city life. Artists (Панчо Фиерро), writers (Рикардо the Palm tree or Мануэль

Асенцио Сегюра), photographers (Эугене Курре) used types of street dealers in the works. Мануэль Атанасио Фуэнтес wrote, that one of them, on Агведита, the inventor of telegraph was more known for the soft drinks and sweets, than. The official society considered внелегальную trade as a part of cultural traditions and customs of city and did not realize, that it can create once threat to legal trade and change the person of city - street dealers were so small at that time. Such attitude allowed migrants to use street trade as an opening for occurrence during a city life.

## **Municipal regulation as a step to a recognition**

**Внезаконная trade has been indirectly recognized by municipal authorities when the last have borrowed in a detailed regulation of street trade.**

**Legal requirements to street trade were rather sketchy and specific. The decree from September, 14th, 1915 represents the first set corrected, ordering street trade. This decree demanded not only purchases of the sanction to trade and registration, but also forbade trade in the foodstuffs, ordered a design of carriages and other means for transportation of the goods, entered checks of health of sellers.**

**The decree, however, did not give sellers any right to street space. Advice of capital defined the street dealer as the person moving along the street and stopping only for a while, necessary for sale of the goods. From this follows, that already then there were also other dealers fixed on certain places and possessed the special property rights.**

**The decree has reached effect, the return expected. The arch of the rules adjusting activity of street dealers, authority have simply created for them lawful space. The number of street dealers, certainly, has grown, and with it and their aspiration to stop trade racing and to find the special property rights to shops. In January, 1916 Advice of capital has accepted the second decree almost literally reproduced positions first and entered fines for its infringement.**

### **Basis of the special property rights**

During the third stage of evolution street dealers, despite of significant resistance of authorities, have gradually developed the special property rights. On it it is has left about three decades. With growth of number of dealers and complication of their activity of attempt to be fixed in the chosen points of street space became inevitable. Reaction of the state was inconsistent. Under decrees 1915 and 1916 dealers should move on streets, stopping only for the period of sale of the goods. In the first decade of a century vagrant dealers paid daily on 50 центавов, and киоскеры and stallkeepers - improbable 5 salts in day from square meter.

Such method suited, while street dealers was a little. As soon as their number began to grow, the central government has tried to limit this growth. It has suspended collection of the tax to prevent occurrence of the special property rights to accommodation of a shop. Because of this decision the municipality has lost so significant incomes, that in 1936 has started to raise the tax illegally. Dealers ожили, began to arise congestions of stalls, the street space has joined in a commercial life. In 1944 the central government has been compelled to recede.

Finally the state every time conceded - the tax in exchange for development of streets. Per 1946 group APRA in the senate has tried to lead the law on which the tax

to the right of street trade should become a constant source of the income for municipalities. On December, 11th, 1947 this law has been accepted. The city council has allowed to prove temporarily to dealers there where they do not stir to movement and do not compete to stationary trade.

## Competition to stationary trade

The fourth stage of development is noted by transition from the traditional goods of messengers - local delicacies, hot and cold drinks - to sale of the goods and services, that is intrusion into sphere of stationary trade.

In the first decade of XX century the municipal government was at enmity with sellers of ready food, entered interdictions and punishments in fruitless attempt to operate them. Dealers began to be connected to other city crafts. And the increasing number of messengers settled in stalls which have started to trade in contraband and illegal production. The assortment of street trade has replenished with dry goods, perfumery and cosmetics; there were street tinmen and sanitary technicians. The growing competition from street sellers has disturbed legal dealers who have demanded intervention of the state.

Augusto B. Leguja's government, for example, from 1927 has obliged dealers to be registered by the law in the patent or industrial tax register, to give data on the turnaround means and a residence, to have and show documents on deliveries of the goods, confirming its lawful origin. Any of these positions, however, did not forbid a competition to stationary trade. Nine years later the government has forbidden to sell in the street everything, except for food stuffs and dry goods. But also this interdiction of success had no. The volume of trade extended, and incomes of it grew.

### Occurrence of the first **внезаконных** the markets

Construction of the first **внезаконных** the markets in Lima has marked a final failure of attempts of municipality to master street trade. The recognition of the special property rights has allowed sellers to increase commodity circulation, to receive credits from suppliers, to create the organizations and to save money, to move from streets on the markets, specially for them constructed. In 1950 first two markets - only a drop in the sea as in those days on everyone **внезаконный** the market was necessary eight state have been built.

Simultaneously the state continued to lose the control over streets so the government had to publish in large newspapers of the prevention to street dealers that there are the laws adjusting their activity. However these laws continued to be broken and to turn back undesirable processes, authorities have been compelled to reconsider the policy accepted with 1936, and to come back to settlement of a problem as a whole. On November, 24th, 1959 the Advice of capital headed by mayor Hector Garsija Ribejro, has accepted the new decree which operated - at least officially - down to 1981

Decree Рибейро defined street dealers as persons who, using easy means of transportation, can trade in the places of city allocated for it, stopping in the street

only for a while, necessary for trade. A difference in the formulation significant. The law 1936 allowed to stop in the street only for a while, necessary for sale of the goods to the client. In 1947 to dealers was already authorized to stop for trade, that is it was possible to understand so, that it is authorized to them to borrow streets for all working day. The decree was a victory of dealers. They had an opportunity to increase quantity of the goods transported on carriages, so also volume of commercial operations. Began possible to sell not only the foodstuffs and knickknacks, but also toys, perfumery, toilet accessories, кожгалантерею, ornaments, tools.

It is necessary to note, that three positions of this decree have been directed on a protection of stationary trade from a competition from внелегалов. First, it it was forbidden to trade in dear goods. Secondly, their capital could not exceed 72 US dollars. Thirdly, to the shops trading ornaments and a printed matter, it was authorized to expose the show-windows and racks in streets, in other words, the decree allowed to compete it with внелегалами on equal. But any of these measures has not worked. In 1962 mayor Garsija Ribejro has refused to supervise street dealers as they are a part of " an agrarian problem of national scale ", compelling jobless peasants to search for earnings in cities. This decision has not shaken determination of dealers to leave from streets. By then on each three state markets in Lima it was necessary two внелегальных.

### **The markets - alternative to street trade**

The sixth stage has noted been by resolute actions of municipal authorities in struggle more likely with consequences, than with the reasons внелегальной trade. And this struggle it is irreversible deformed attitudes: pushing dealers to build внелегальные the markets, provoking on opposition with authorities, it simultaneously conducted to politization of various groups of dealers.

The new municipality headed Луисом Бедойя Рейесом, won elections 1963, tried to find the practical approach to a problem. Dealers were in streets, sold the every possible goods, and to clean them, not creating in city of emptiness, it was impossible. But also to leave them in streets it was impossible, as they stirred to movement, broke sanitary norms, - were соломинкой in an eye. Besides they dishonestly competed to stationary trade. To clean them from streets, the markets were necessary.

Not seeing an output, the municipality has started to build the market the Dignity-¿½ýñÑð«¡β« to move then there a significant part of street dealers. The opportunity of expansion of the market for reception of new sellers was provided.

The municipality did not try to monopolize construction of the markets. On the contrary, under the agreement with the central government, it released any interested in construction of such markets from payment of taxes and even the duty on the sanction to construction and besides created more favorable conditions for the

organizations of dealers. Such position was kept for a number of years. It was the first case when authorities, it is possible вынужденно, have taken steps to facilitate transformation of the doubtful special property rights in lawfully issued property rights. As a result between 1964 and 1970 (when Бедойя has left from the post) on each market constructed by the state, was necessary already four, constructed внезаконными.

Having finished construction of the market the Dignity-«Достоинство», Advice of capital began to carry out the plan. The decree from September, 20th, 1964 Advice has ordered to dealers to leave with Авениды Абанкай where at that time they accumulated most of all. The decision was justified by necessity to return to Lima grandeur and elegance, приличествующие to capital of Republic though lawful needs of the poor people earned by such trade there and then admitted.

The result was pitiable. There were collisions between dealers and the police operated together with national guards, and dealers were covered on parking and in garages where their carriages were stored. Advice of capital has forbidden after that to accept on parking of the carriage, tricycles and the other equipment of street dealers. Use by authorities of force has induced dealers to be organized for self-defense. In 1963 first steps in this direction have been made. Then in areas Sebastjan Барранка, Писаруа and in area the Union of fine dealers and street sellers - the union first a similar sort in city on February, 3rd has been created. Later it has incorporated to Federation of street dealers of the Central market and adjoining streets (FEVACEL) - the first large organization generated for protection of dealers, grouped around of the Central market.

FEVACEL was the organization of the self-defense served limited number of persons, however ability of dealers to self-organizing has interested also some politicians. Dealers have ceased to be an exotic ornament of a city landscape and have become potential participants of a political life of the Peruvian society.

During this stage the sellers, decided to build the markets have become stronger also. By then, as Бедойя has departed from a management, they already set the fashion in trade: to 1970 on each market constructed by the state, was necessary two, constructed внезаконными.

### **Political recognition**

**The seventh stage of development внезаконной trade has begun, when group of the dealers, decided to remain in streets, has got political support.**

**In 1970 the military government of general Huana Velasko Alvarado has suggested to replace Edward Dibosu Chappuisu Бедойя on its post. First new mayor intended to build the markets for street dealers, but without violence - the political climate has changed as a result of revolution 1968 the new market in the**

street Айякучо Has been incorporated. However the inconsistency of the municipal government has not allowed to continue its construction. The new policy Was required. The municipality again has declared street trade in a structural problem that not only to justify own divergence, but also to make dictatorship of more liberal.

Per 1971 the municipality has ceased to interfere with business of street trade, having limited only that has ordered to national guards and police to not start up sellers on streets Avenida Эмансипасьон and Ла Унион. Having thought, that collection of the tax is a sign on a direct recognition of street dealers, Advice has cancelled it and has lost corresponding incomes. The decision, however, has concerned only the area the Ale-ḡÑÓ-ḡáñ« was under the direct control of Provincial advice. In other areas the tax raised on former.

Dealers had to get out. Someone has found the witty decision: to trade on the places allocated for a paid parking, and to pay for parking. Earlier dealers kept aloof of parking as the tax was below, than a payment for parking, mass approach to parking now has begun. However this decision has helped only to a small number of dealers, basically - to those who settled down around of the Central market. The others have been compelled to begin political negotiations about a lawful recognition necessary for them. They have found the potential ally in mayor Dibose. It was the first mayor who has been not chosen, and appointed on this post, and required in легитимизации, so and powerful national support. Dialogue with the organizations of street dealers gave it a natural opportunity to get such support.

Дибос has invited leaders of street dealers to constant dialogue with municipal authorities, having given to them a new role and having won itself popularity which was kept to the death in the middle with 1974 Leaders of dealers have answered with mass support, have created to mayor popularity so necessary for it and have reached at the same time political influence which only one self-defense never would give them. Dealers also have temporarily delayed loss of the special property rights though from them have ceased to raise the tax. Subsequently became a rule for municipalities, that all laws concerning street dealers were coordinated with them. When Дибос has died, its post has borrowed Лисардо Альсамора Поррас, continued a policy of the predecessor. Since then authorities have lost an opportunity absolutely to ignore street sellers.

Aspirations of dealers also have changed. When they have understood, that the destiny of a municipal management can depend on them, political value of the organizations became clear to them also. The organizations gave them a unknown degree of security in streets. However soon street dealers have broken up on two precise groups: on those who not wishing to lose the adjusted communications also has preferred to remain in the street, having relied on

intermediary of leaders with their politics tricks; and on those who, not having especial political communications or being more successful in business, aspired to move under a roof of the markets.

### **Sociological interpretation and creation of bonded areas**

The eighth stage of evolution **внезаконной** trade has begun, when authorities, having realized political loss, have given street dealers an even greater freedom of actions, having recognized their existence by a structural problem which can be solved only by means of uncertain structural changes. But the municipality has declared congestions of street dealers "bonded areas".

In 1976, during the Revolutionary government of armed forces (1977 - 1980), the general in Arturo Kaveró Kaliksto's resignation has been appointed by mayor of Lima. The same year it has called for creation of the multilateral commission for studying street trade that on the basis of its conclusions to offer alternative decisions. It has got support of the then prime minister of general Georges Fernandez Maldonado which has offered representatives of Provincial advice, the ministries of the foodstuffs, the ministries of the industry, work, internal affairs, trade and National statistical institute to be a part of the commission. The commission has lead the first in history of city census of street dealers.

Attraction of the major ministries to studying a problem as a whole was the major victory. In fact admitted, that it is a question of a structural problem and, thus, street trade was protected from cleanly administrative measures. For now there was a work of the commission, the municipality has recognized the right to trade in the certain places of city (Аvenida Альфонсо Угарте, Avenida Грау, Пласа Унион and others), having declared their bonded areas. It was the important step to consolidation of the special property rights. To confirm creation of bonded areas, municipality the founder of Association of street dealers of Peru and most popular of its leaders has signed the agreement with street dealers who were at that time headed by Victor Alcantara. Never before such agreements with dealers concluded.

The multilateral commission has begun work in conditions of the big enthusiasm. It was expected, that it will open a new era in street trade and will offer ways of the final decision of a problem. To participation leaders of street dealers have been invited, and the invitation was accepted. They have helped to plan census and have offered all help. But when dealers have realized, that the commission cannot accept decisions, and can put forward only offers, they have gradually lost interest to work in it. The establishment of bonded areas has given them a minimum of desirable safety. In the first sessions of the commission

participated more than 2 thousand leaders, then this number was reduced and, at last, joint sessions have stopped.

In March, 1977 the commission has presented the written report with a conclusion, that street trade is a problem structural and long-term, and now it can be adjusted and supervised only to reduce any negative effects. The commission has offered the arch corrected, offered: to recognize street trade as the time form of trade; to create the national register of street dealers; to oblige them to submit declarations and to pay the tax; to establish strictly certain places of trade and to impose restrictions on volume of trade and use of the special equipment; it is severe to fine for default of these requirements. It was offered to create fund for financing a market infrastructure and the activity connected with street trade and moving of sellers from streets. It was recommended: to generate the national plan of employment, to construct the markets, to arrange to restriction of migration and to promote the organizations of street dealers. Mayor Kavero has approved offers and has presented the Ministry of Trade which has forwarded them to Ministerial council. Last, dealt with own problems, has dispatched them in the corresponding ministries. The executive authority, thus, has washed hands.

When the multilateral commission in 1977 has finished the works, on each market constructed by the state, it was necessary three, constructed **внезаконно**.

### **Strengthening of the organizations of street dealers**

The ninth stage was characterized by extreme toughening of reprisals against street dealers that has led to strengthening and радикализации their organizations of self-defense.

In April, 1978 the municipality headed by general Enrique Falconi Mehia, was at president Francisco Bermudez the chief of the Joint Staff, has passed from passivity to one of the most resolute in history of Peru of approaches to street trade. The attitude to street trade could change that new mayor has tried to solve in a military way a problem, having taken advantage of discontent of the certain layers of a society with the disorder in streets. Some observers believed, that actually the general wished to break the organizations of dealers headed марксистами. What were the valid motives, but it in cooperation with police has lead so-called " operation сомбрилья " ("umbrella") which provided blocking the area limited by streets Takna and Nikolay de Пьерола, Айякучо and quay of the river Rimak and final exile from it dealers.

In day of carrying out of operation the police has surrounded area and has grasped thus the met dealers. Other groups have begun to clear area of sellers, street behind street. The present battle between dealers and police was developed, and last

used водометы and tear gas. Carriages have been broken, the goods are scattered. As soon as the area has become empty, municipal authorities have ordered to police to surround it and to exclude an opportunity of returning of dealers. As the police could not hold a cordon constantly, command has made a decision to block area only in the mornings when as it believed, dealers can try to get into it. Sellers have changed the daily routine: while the police held a cordon, they were on respectful distance. As soon as the police left, they again grasped area. Фалькони has disposed to hold constant protection till 7 evenings, but dealers appeared soon after that hour. Then authorities have ordered to protection to be on posts till 9 evenings.

Rigid police action has gradually turned to similarity of children's game " policemen and thieves ", finally undermined authority of the municipal government. In some weeks it became clear, that the police not in a condition constantly to hold city centre in a cordon. Police pressure has weakened, and street dealers again have appeared winners. All this episode has shown, that mass exiles of sellers have no practical sense. The night trade in the ready meal prevailing nowadays in such brisk places of trade as Пласа Дос де Майо and Пласа Унион, has begun during police blockade.

The organizations of street dealers, especially FEVACEL and FEDEVAL, not only have not disappeared, but also have got stronger, as have been generated for protection of the members under any circumstances. As operations against нелегалов have not mentioned area of the Central market, organization FEDEVAL headed марксистами has especially become stronger. Thus, the police not only has reached nothing, but authorities had to run a business henceforth with formations, first, the extremely politized and capable to resist to forces of the law and the order, and. Secondly, headed communists who after " class fight " with militarians have gained trust and respect. That is, as always, businessmen have been compelled to search for protection in the organizations which leaders hated business.

### **Section of streets**

The tenth stage has begun, when dealers have marked in streets of border of the special possession.

Роберто Каррион Поллит, become by mayor in January, 1979, has tried to correct mistakes of the predecessors and has invited внелегалов to cooperate, having given to them a part of imperous powers. Everyone had to go on concessions: Каррион has offered condescension and participation, leaders have agreed to be a representative in authorities, street dealers promised to keep order. To surprise of the public, results became appreciable almost instantly. Appearance of street shops has improved, approaches to shops have been cleared away, maintenance of cleanliness is organized. Dealers a fish about the streets Andaguajlas was, according to newspaper

reporters, the dirtiest in city, have received a dark brick-red uniform that their quarter looked better. It has had instant an effect on street dealers in area of the Central market and Авениды Абанкай. They not only have cleared and have decorated the shops, but have marked sidewalks, having specified places of trade of everyone. The national confederation of dealers, and also mass media have regarded it as attempt of illegal section of streets, however here a paint on asphalt have only fixed already developed situation.

The set example shows, how the deformed stimulus change behaviour: politization has directed street dealers on section of streets, instead of on finding of a private property in the markets.

### **Street dealers - legislators?**

The eleventh stage has begun, when the politized street dealers for the first time have tried to become legislators.

In board Pero Perantoni Kampora, last mayor appointed by militarians, street dealers have felt, that pending general election 1980, before re-election of municipality there is no sense to continue negotiations and that there has come an opportunity to show the initiative and to put forward legislative offers. On July, 25th, for three days before Fernando Belonde became the president of Republic, the group of street dealers has informed the public, that they generate a command of experts for preparation of the bill of street trade. Thus, they have shown not only understanding of importance of use of the law in the interests, but also a level of own politization. As municipal authorities have not solved a problem, dealers will try to show legislators as for it to undertake.

Offers then did not become the law. Moreover, some mass media and a part of public have regarded all this as the maximum degree of lawlessness from people, contrary to the law borrowing streets.

### **Illusions of municipal management**

**The twelfth stage was marked by that the municipality has understood: to expel street dealers from city it is impossible, and has decided to leave these attempts.**

**Arrival of the democratic government meant the end to purposes of mayors and return to municipal elections. November, 1980 on these elections was won Edward Orrego, by the representative of party in power. Having accepted a post, new mayor has found out, that street dealers have grasped all city. Streets in the center have been completely borrowed, especially Ла Унион and Пласа Унион. In separate districts capture of streets by dealers had even more mass character. Dealers have generated dense numbers around of the markets, and**

the mini-markets became the basic suppliers of the goods, especially in **внезаконных** settlements.

Public was far not in delight from it. The newspapers, recently returned to owners, derided a situation. Owners of shops showed extreme discontent. The townspeople demanded from municipality **поприжать** street trade in which saw one of the most hardy social consequences of military board. All this has created extremely difficult situation which the new municipality did not try to solve at all for from the very beginning felt lost. The government has solved, that struggle for Lima is struggle for city centre. Lima **Квадрада**, area to which Advice of capital assumed to limit the actions, made only 0,3 % of the general city area of Lima. On the remained 99,7 % street dealers have been given to themselves.

In the end of March, 1981 the city government has declared, that to street dealers it is necessary quickly and to leave in an amicable way area Lima **Квадрада** and that for them new markets in areas **Polvos Azulес**, behind of the Palace of the government, and **Авенида Argentina** open. But attempt to press dealers only in traditional city centre, given free rein to those who has settled down around of the Central market and in adjoining areas - places of the highest concentration of street dealers, has led municipality to the conflict to the dealers was under protection of organization **FEDEVAL**.

On April, 24th has burst a thunder. Organized **FEDEVAL** the march which was headed by members of parliament **Роландо Бренья** (маоист) and **Хуго Бланко** (троцкист), from area of the Central market has directed to **Пласа де Армас**. On a way it has been severely dispersed by police. Collisions have delayed decision-making, but on July, 7th in capital newspapers the decree of the mayor which has finally fixed exile of dealers from area Lima **Квадрада** and their moving on markets has been published.

Collisions have again begun. There were meetings, marches, the manifestations of protest, the overturned cars. Structures of fair "**Амазонас**" have thrown cocktails **Молотова**. But by August mayor **Orrego** has won: the majority of dealers have moved in **Польвос Azulес** and "**Амазонас**", have got there clientele, and eventually all has calmed down.

**Oppero**, hardworking and realistically conceiving mayor, has reached the purpose: has moved dealers from the center to adjoining areas. But as well as in other cases of victories of the government above forces of the disorder, the triumph has appeared illusory:

the disorder has been simply moved from city centre to vicinities of the Palace of the government, on markets. The last to this day are under protection of Advice of capital that is why have turned to the center on sale of contraband. Reprisals have so strengthened **Guillermo Nikolasko's** position, the marxist

leader of organization FEDEVAL, that on following elections it has got in members of Advice of capital and managed a problem of street trade.

### **The politized street dealers in the municipal government**

Last stage of development of street trade has begun, when the politized street dealers have held executive posts in the municipal government.

November, 1983 on elections of mayor of Lima has won Альфонсо Баррантес Линган, headed a coalition of marxist parties in which it has involved Николаско and, hence, FEDEVAL. In the beginning the new administration continued to support idea of markets and even has opened new in Пласа Гастаньега and Вирген де Лудрес. It proceeded not for long as the politized street dealers in the municipal government have tried to distribute the influence on this kind of activity, ignoring its enterprise essence and trying to transform in бюрократически-party force.

In April, 1985 Provincial advice of Lima has published the decree which has defined the new policy of Advice in relation to street trade. The decree decided: street dealers should receive the sanction to the activity, have no right to cook food in streets, declarations should submit and confirm legality of purchase of the goods, carry white aprons and standardize the working equipment, pass medical boards, limit the capital to two tax units (in 1985 tax unit made 409,80 dollars), to not own other business and to not receive from it incomes, to observe established business hours and to consist in the professional organization. The decree also created fund of the help to street dealers.

In it there was nothing especially new. Five of six positions of the decree already tried to carry out before and unsuccessfully. Dealers were recommended to receive sanctions in 1617, 1670, 1936, 1947 and 1959 the Interdiction on cooking in streets left in 1789 1916 and, 1936, 1947 and 1959 the Limiting sizes of the capital were established in 1947 and 1959 to Street dealers was made a duty to carry white aprons in 1915, 1916, 1936, 1947 and 1959 of Attempt to standardize the equipment were undertaken in 1915, 1916 and 1959 and to pass physical examination it was recommended in 1936, 1947 and 1959 And idea of fund of the help to street dealers, undoubtedly, was based on one of conclusions of the multilateral commission 1976 the Unique really new element the requirement to consist in one of the organizations of street dealers was, to operate legally and strictly to observe the established schedule of work. The attitude left to street trade was quite traditional.

The decree pursued at least two important purposes. That fact, that a unique new element of the decree became the requirement to enter one of the organizations, testifies to primary intention to politize and пролетаризировать

**the unions. Requirements that dealers limited the capitals, did not open new business or did not use the income of it, received the sanction to opening of business and satisfied to set of unreal aesthetic requirements, confirm, that the municipal government meaningly blocked it a way to business, forcing to increase in costs and interfering with accumulation! The capital, sufficient for leaving from streets on the markets.**

**The institute has opened a negative effect of the law in newspaper publications, met with of approval and support more than 100 organizations of street dealers that has accelerated a recognition of the decree disabled and its cancelling. All this has a little disturbed the dealers, tried own efforts to leave from streets on the markets. In 1985 when there was this decree, on each state market was necessary five **внезаконных**.**

### **Campaign to the markets**

The history **внезаконной** trade is history of the great campaign slowed down by superpolitization to the markets, reflected hope of the certain group of the population for reception of the guaranteed private property which would enable to be engaged in business in favorable conditions. Purposefulness of dealers sharply contrasted with inconsistency of the state. Its fluctuations from an interdiction of street trade before cooperation with it, begun during colonial times, show, that authorities during centuries did not understand an event. Within 50 years both central, and the municipal governments **перебрасывали** each other the responsibility for street trade, and not having come to the uniform policy who would allow them to operate irrespective of momentary interests. As a result intentions of street dealers have been completely deformed, their groups are politized and promotion of the majority of them to legal business is slowed down.

We saw, how long years street dealers struggled for that their business was protected by the law. The first was fight for the special property rights. The second - for the markets, resulted the majority of the dealers who have already saved means for the beginning of construction of the markets, to the conflict to the state. Authorities, having united with minority of these dealers, aspired to politize system to not lose influence on it when street dealers become private proprietors. In both fights we observe confrontation between rebellious and **внезаконным** Peru and supporters of the status quo in this or that politized environment.

From the point of view of dealers, both fights have been justified: the property right allows to use and accumulate resources, stimulates manufacture and guarantees inviolability of investments and accumulation. It allows to benefit by a constancy of a place of trade. That is why **внезаконные** dealers used the best efforts to acquire this right, leaning first of all on them created **внезаконную** legal system. Last, at all refinement, remained imperfect and was not capable to guarantee any rights reliably.

Later dealers have realized necessity of political negotiations and even confrontations for protection of the interests.

Such monstrous waste of forces and means for can seem, however, that leaving streets, is vain, and that the state should interfere with this process directly. If to accept this point of view, that, according to estimations of Institute, the state treasury should enclose 108 million dollars to move 91 455 street dealers operating in city, even on the most modest markets. Besides annually it is required to allocate 5,4 million dollars more to place in these markets of new dealers.

If to consider, that initial investments (108 million dollars) into Lima make about 7,6 % of total public investments on all country in 1984, probability of that the state could move dealers from streets on the markets quickly and effectively, is very small. That really it was meaningful to make, so it to think, as it is possible to help dealers, instead of to interfere with them for they already became the main builders of the markets. 274 markets erected by them against 57 markets and 8 poor markets constructed by the state, evidently show, that at all obstacles invincible **внезаконное** movement proceeds.

The ideal decision of a problem would be removal of obstacles and transformation of political stimulus into legal opportunities. It would liberate and has increased enterprise energy of street dealers and has enabled them during competitive struggle completely to use the talents and by that more effectively to serve a society.

#### **Chapter 4. Внезаконный транспорт**

##### **Kinds **внезаконных** vehicles**

##### **Evolution **внезаконного** transport**

##### **Secret of periodic bankruptcies**

**Внезаконный passenger transport has arisen the same as **внезаконное** housing construction and trade. More 50 years ago thousand **внезаконных** drivers have started to ply between poor quarters and other part of city.**

**Park **внезаконного** transport which the same as **внезаконные** construction and trade, operates outside of and even contrary to the law, cars of type make a sedan, универсал, minibuses, buses " Volkswagens ", Д-300, etc.**

**According to Institute, in 1984 from 16228 cars used for passenger transportations, 91 % of machines worked **внезаконно**. If to add a taxi and rented cars the share will be still above and will make 95 % of all park of public transport of Lima. Legal transport made the remained 9 %, including 4 % belonged to the state National corporation of a municipal transportation of Peru**

(ENATRU), and 5 % - to cooperative societies, the corporations belonging workers and transport corporation of Lima (TLMERS).

Regenerative cost of park внелегальных vehicles made 620 million dollars in the prices 1984 Leaders внелегальных drivers estimate additional investments in an infrastructure - petrol filling stations, repair shops both other necessary constructions and the equipment - at least in 400 million dollars

Внелегалы carry out the extremely important social function - satisfy transport needs of inhabitants внелегальных settlements. This transport provides communication between new inhabited files and the city center while the state corporation and other companies serve, as a rule, traditional quarters of city.

That fact, that внелегальному belongs to sector so a greater share in passenger transportations, means, that, as well as in cases with housing construction and trade, here there should be a complex system economic and legal relations before there was possible a corresponding development. Below we shall try to explain the reasons of such phenomenon, having described various types внелегального transport, внелегальные the norms operating behaviour in this environment, historical evolution, and also many problems of mass passenger transportations arisen by virtue of политизированности of positions of the state.

#### **Kinds внелегальных vehicles**

To a variety of vehicles there corresponds existence at least two base types of the organization of transport. The first is known as "fixed-route taxi" and is provided with sedans (on 5 person). The second is provided with minibuses (on 8 - 11 person); minibuses Д-300 on 16 - 18 sedentary places and the general capacity до 43 passengers; by buses D-500, ВВ-57 and "Mercedes-Benz" capacity up to 71, 77 and 90 passengers accordingly; by buses "Сканча Вабис", "Дженерал Моторс" and "Интернешнл", calculated more than on 80 passengers. The difference between fixed-route taxis and minibuses consists basically at a rate of used machines and, hence, in scale of operations. Qualitative distinctions here are not present. As well as in trade, types внелегального transport represent more likely not distinctions of types of the organization, and a number of consecutive stages of the general process. Many drivers внелегального the transport, begun on fixed-route taxis, gradually got minibuses.

Not all drivers equally внелегальны as some of them have received a special kind of an administrative recognition - concession. Not having concessions, owing to their full illegality, are called as "pirates". However presence of concession does not mean full legality of operations as does not give access to one of the blessings following from really lawful status (for example, to legal security of the property and

contracts, or to limited liability owing to which it would be possible to receive the insurance and the credit, and т. Item). The bureaucratic recognition creates the special status with known stability and security of operations. Such position also does this activity внезаконной, the subordinate to rules внезаконного the right which defines, among other, the rights of possession.

We can judge importance внезаконной systems on that fact, that drivers 91 of everyone 100 transport passenger means of Lima follow rules of this system, and only 9 adhere to the state rules. Thus, внезаконная the system is socially significant.

### **Capture of routes**

In the same way, as внезаконные поселенцы street dealers - streets grasp the ground, and, drivers внезаконного transport grasp routes. The route is not material, as the ground or street space, and something is imperceptible. It is created by transport needs of the population and defined by initial and final points. Similarly to street dealers, drivers внезаконного transport grasped routes basically individually, operating with a trial and error method which we shall try to describe.

In a basis of process economic calculation of drivers внезаконного transport which try to estimate advantages of one route above another lays. For this purpose it is necessary for them to reveal, at least, potential need for their services, to understand, what new areas or settlements are insufficiently provided by transport. It is necessary to estimate need of the population for trips and a real opportunity of service. The estimation of various routes develops, thus, of characteristics of the route and needs of potential users. Having defined these components, the driver-внезаконник can allocate the most attractive route and begin capture. So внезаконники become businessmen as in searches of the best way to earn money, to reveal and satisfy demand study to correlate resources accessible to them to circumstances.

Drivers-внезаконники should besides to consider possible reaction of other people as capture of a route always infringes on interests of the third parties. Whether it is necessary to know, first, there are others внезаконники which also apply for this route. If yes, in competition for the right to serve the route will be won finally by the one who can do it with greater profit, differently - who will enclose more means in capture of the given route.

Secondly, the prospective owner of a route should consider a position of police and bureaucracy. If they against, with them it is necessary to negotiate, or collecting signatures of inhabitants under the application on creation of a route, or by means of bribes which are usually useful and to protection against intrusion of other drivers-внезаконников.

At last, it is necessary to consider possible reaction of inhabitants which part is interested in this service and would like to see its constant, and the part will object

owing to the risk created by growth of traffic. After end of all calculations the driver in a condition to solve, whether to grasp the chosen route.

Capture is used not only for opening and the statement of new routes. It also is the form of expansion or updating already existing. And such captures - business already not separate drivers, and groups as *внезаконные* the organizations or committees should approve capture on general meeting, proceeding from the estimations, completely similar the aforesaid. During researches the Institute supported contacts to one committee which expanded the route by capture. The committee represented small group of the people served not profitable route which they have received in the inheritance from group of taxi drivers and aspired to grasp new routes to raise profitableness.

Owing to it the institute could observe, how drivers-*внезаконники* solve this problem. First, they have estimated potential extent of a route which were going to grasp, holding in mind an opportunity to involve greater number of passengers. Further, as they were aimed only at a small site of a route and did not expect serious resistance from the third parties have contacted the fine official of the ministry of transport familiar to them and communications and have offered it 60 dollars for the help in reception of the official sanction. Later the same official on behalf of *внезаконников* has agreed with police about a monthly bribe in 10 dollars to secure with their good relation on the future.

Having lead such preparation, drivers have begun regular flights and have simultaneously submitted to the ministry the application on an official recognition to receive the document which would confirm, that the application is submitted and considered. Trying to support a regularity of flights to develop at people a habit to use their services, they have collected signatures to prove to authorities presence of demand and own utility. A year later when not only passengers, but also police, officials and area as a whole have got used to their presence, drivers have managed to fix the position, having received new concession.

Though many drivers-*внезаконники* have successfully achieved an official recognition and even have received concessions on a route, an initial source of their rights is capture. By estimations of Institute, almost all nowadays existing routes have the source the capture obtaining subsequently a recognition authorities with the constant clause, that this only time exception.

Capture - the phenomenon undesirable. It is necessary to spend huge means before the rights, in any case not guaranteed, at last will be received. Moreover, as problems of transport mention not only passengers, the society as a whole suffers from corruption of officials, from absence of the order and safety on roads.

### **The right to assignment of routes**

Practice of grab of routes allows *внезаконникам* to start operation even before reception of official sanctions. It assumes existence *внезаконных* the rights which we have named " the right to assignment of a route ".

Granting of transport services can be economic only because this right allows *внезаконникам* to maintain routes on the understanding and at desire freely to sell the right to operation of a route. But as this right has a source capture and is based on *внезаконных* norms, it imperfectly and demands a recognition of the state in the form of concession.

The right to a route, thus, passes long process of perfection during which attempts to give to it *гарантированность* and stability that it has come nearer to legally recognized property right are done. The right to a route gradually becomes more and more exclusive as there are no two absolutely identical routes though they can be crossed in something. The opportunity of sale of the right to a route is done complex system of transfer of this right more guaranteed in process of development. The institute has revealed two such systems. The first is a free system in which each participant can sell the share in a route at own will, without the consent of the others and without obligations all over again to offer its other drivers. In these cases sale differs from sale of a share in usual business, and in the registration book, leded committee a little, the surname of a new member is only brought. Sometimes the buyer pays to committee the additional sum - the "entrance fee" meaning a recognition of a various sort of monetary investments and other costs, suffered by old members of committee the last years.

The second system is less free. Selling the share should consider rights of priority of other drivers entering into committee. The preference is given drivers and the conductors who are not having own cars. In some cases the rule operates, that only the committee has the right to get a share then to sell its wishing to work on the given route.

Other methods of sale are possible also. In some old committees, on whose routes there were very few passengers, sale is forbidden, and new members are accepted only if they have acquired the right by right of succession. We have found out committees which exist already in the third generation. *Внезаконные* rules also define the order of actions in case of when drivers leave from a route. Using the concept known as " the municipal right ", committee pays leaving its share of participation in investments, payments in the general funds and in other costs. Authorities usually at all are not interested in similar things. But as transactions cause changes in official registers, authorities consider messages of committees on change of their structure.

## **Внезаконные организации водителей**

As the rights to the grasped routes grow in the price, drivers-внезаконники start to aspire to self-organizing and to interaction with lawful state institutes. For this purpose it is necessary for them to create the organizations at two base levels: first, committees of drivers-внезаконников of one route; secondly, association of committees in the unions and further - in federation.

### **Committees**

внезаконного transport before capture of routes contracts do not consist in sphere. After independent capture of a route each driver in the beginning works independently, itself establishes the schedule and operation time, itself appoints a payment for travel. But this independence cannot last infinitely, and it is necessary to coordinate somehow the activity with other drivers working on the same route as correctly chosen on extent and number of passengers the route draws new competitors.

The organization has a number of advantages: allows to lower working costs and guarantees regular granting services that is pleasant to passengers. It is easier to incorporated drivers to negotiate with authorities and to protect inviolability of the route. Besides it enables to not suppose on a route of beginners after the quantity of cars allows to satisfy inquiries of passengers.

Under the initiative of the most enterprising members of group, the drivers who have grasped a route, spend the closed meetings on which select leaders and develop the operating procedure on a route. Census of members of the organization is spent, democratic enough mechanism of periodic re-election of leaders is established and the decision on creation of the general funds with obligatory payments and the special body called by committee, bearing the special responsibility for achievement of the purposes put by members of the organization makes. All this sum of agreements can be considered as the contract about creation of the informal company.

The committee is учредительская the structure created after capture for achievement of the purposes внезаконного of company. Activity of committee is concentrated to two problems: first, to promote внезаконному to business and to organize economic operation of a route, and secondly, to represent interests of the organization in negotiations with authorities and to protect received внезаконные the rights.

Such duality is reflected in specialization of activity of a management of committee. There is a secretary general who is carrying out both a management by business, and representation of interests, and other secretaries with various functions. The organization of business is entrusted to the secretary on the organizational questions, responsible for a management as a whole; the secretary under the finance operates the general fund; the secretary on technical questions is responsible for the

organization of repair shops, delivery of spare parts and creation of filling stations; the secretary on social questions is responsible for attitudes with the public; the secretary by formation and sports - for creation of libraries and carrying out of football matches. The secretary on protection is responsible for negotiations with authorities and bribery, and on a press and publicity the publication of circulars and bulletins is entrusted to the secretary.

Enterprise problems of committee are rather complex. The management should raise quality of service on the grasped site of a route, constantly to watch market condition, to equip initial and final stops that is obviously forbidden by the law, and to establish a payment for travel. If the committee has already agreed that the state will supervise a payment for travel in exchange for bureaucratic узаконивание it simply estimates, whether it is possible to work at the established payment of travel, and chooses, what privileges to demand in exchange for refusal of possible profit. The piracy committees which are not recognizing the state control, establish a payment - or uniform on all route, or depending on distance, if a route long enough.

The management also makes of the decision on intervals of movement and the order of departure of cars on a line. The general meeting establishing intervals, appoints also the dispatchers observing of a regularity of movement at final stops. They have the right to fine the drivers who are beaten out from the schedule. We collided only with symbolical penalties: no more than 50 cents for an output from the schedule.

The management solves, besides who from the drivers who are not having own cars, will work in shifts with owners of machines when those have a rest, and establishes rules of work of the conductors collecting a payment for travel. Candidates usually recommended by someone for reliefs are approved with general meeting. To these drivers pay some percent from the net profit brought by given machine - on the average about 25 %. People for gathering a payment for travel are found by drivers as the collector will organize work, is responsible for filling the machine, and should watch, that the relief did not pocket money. The management conducts also the current account of drivers and machines, basically for granting the information to authorities in case of need.

The committee helps to solve problems of financing as it is difficult to drivers-внезаконникам to receive the credit in usual financial establishments. Three approaches are used. First, the general funds formed of periodic voluntary payments of drivers are created. These means are stored on the joint bank account which the secretary under the finance operates. From the account charges on purchase of spare parts and on wholesale purchases горючесмазочных materials, on updating of park of cars and in general on any charges of committee, whether it be construction or a banquet are paid.

There are also loan cash departments. They are rather similar to the general fund, but can give to drivers of the loan for maintenance of their activity. At charge of

percent under loans the committee is guided not by the bank percent established by the state, and on the rate *внезаконного* the free market of credits. It, certainly, favourably to investors, as percent under their contributions above, than in bank. It is favourable also to borrowers for no other credit simply is accessible to them. Besides there is a "cooperative" credit which differs from loan cash departments only that cooperative societies operate quite legally.

At last, the committee aspires to create fund of a mutual insurance for indemnification of the losses connected with road and transport incidents as drivers-*внезаконны* have no access to services of the usual insurance companies. On general meeting the list of insured risks where traumas and a material damage of the driver usually enter, but not damage of the third parties is established. Such funds of a mutual insurance are organized only in the richest and civilized committees. In the others there is a unwritten rule: if as a result of failure the driver loses the machine, to it give work as a relief by the best machine of a route until its financial position will not recover.

Functions of committee and in attitudes with authorities are not less complex. As committees operate *внезаконно*, they aspire to be recognized the rights to service of routes and when the recognition is received - achieve side benefits: the rights to expand a route under own discretion, the rights to equip final and intermediate stops. Usually the consent is reached at mutual concessions. When authorities have political interests, they demand in exchange for privileges political support or the obligation to not participate in political strikes.

For the fastest achievement of success at negotiations drivers often resort to additional forms of pressure. As the organizations of drivers are not quite recognized by the state and have no access to official channels of promotion of requirements, they use, as a rule, power pressure - threats, strikes, marches, a suspension of work, or, for example, petition. And here in such ways, offering political support provoking disorders, drivers-*внезаконны* by own politization and an investment of escalating volume of resources achieved preservation *внезаконных* the rights.

In interests of the organization the committee bribes officials. Usually bribes give for acceleration of bureaucratic procedures and a recognition or protection of the rights to a route. Usual procedure of gathering of bribes is those: one of officials periodically bypasses committees and extorts a tribute and if the size of a bribe is already coordinated, collects money and divides them with colleagues. If *внезаконны* decide to bribe, secretaries on defense offer its police station and government agencies in exchange for desirable service. Usually happens it is necessary, that authorities or did not react to lengthening of routes, or have protected from the pirates, trying to intrude on the established route.

### **The unions and federations**

Though committees usually quite successfully achieved a recognition of the rights to routes, they met huge difficulties in reception of access to higher floors of authority.

Such difficulties arise very quickly as in exchange for partial legalization the state shows a number of claims, in particular, it tries to limit a payment for travel. Since this moment *внезаконных* starts to interest not only security and stability of the rights, but also reception of the new advantages compensating new obligations. As each committee separately cannot mobilize enough of drivers and machines to make impression upon authorities and the public, they create larger organizations, allowing to maintain *перераспределительную* authority of the state. Committees are united in the unions, the unions - in federation, and here and there are political organizations of drivers-*внезаконных*.

While committees are an element *внезаконных* the companies, the unions and federation result from the political agreements aimed at legalization of the rights and on indemnification of regulations about a ceiling of transport tariffs and other state restrictions, arising after legalization. The unions and federation (similarly to committees) achieve mutual concessions and resort to rather similar methods of pressure: petition, threats, a suspension of work, marches and strikes. In the same way at need they bribe officials.

Absence of lawful means of self-defense compels drivers to create the defensive political organizations. Participants of process have all the bases in them to participate. An illustration to that - the control for by tickets. The democratic government aspires to prevent rise in price of tickets to keep image and popularity. Dictatorship does the same for the sake of *легитимизации*. The organizations, from its part, expect to involve new members, to keep and strengthen influence, and privileges are necessary to drivers-*внезаконным* to compensate a low payment for travel.

Presence of obvious interests conducts to a "mercantilist" exchange at which the parties aspire to use *перераспределительные* opportunities of the state. Accordingly the survival or the leading part of the various unions and federations depends on volume and quality of advantages which they are capable to give to committees. Committees pragmatically serve interests of drivers and have no ideological objections against transition from one organization in another depending on offered advantages. Ability to come into contacts or to negotiate with representatives of authority promotes a sharp competition between the organizations.

Two organizations compete in struggle for completeness of scope of drivers: Federation of drivers of Peru (FED) also Federation of drivers and ancillary workers of Peru (ANEXOS). Politically independent FED unites the majority of drivers of transport. Its base in Lima is the Union of drivers of minibuses which includes 95 %-s' committees. ANEXOS adjoins Peruvian organization APRA and it is not numerous.

Its base in Lima - the Union of drivers of public taxi and minibuses of Lima, 5 %-s' committees representing only. As we shall see later, influence of these two organizations varied with change of the governments, but as a result of rivalry drivers-внезаконники have achieved in the course of time amazing privileges.

As to the taxation here the unions and federations joint efforts have achieved write-off of tax debts for 1968 and 1970; clearings of the stamp duty, the tax to a wage fund and payments in system of social insurance; tax exemptions on purchase of second-hand cars, from taxes to sale and from surtaxes .на sale in 1968, 1970, 1971, 1978, 1981 and 1983; clearings of the tax to vehicles in 1970 and 1971; clearings of a part of surtax on businessmen, and also reassessments of actives and capitalizations of the formed surpluses. In the field of the custom duties and federations have received the unions for drivers-внезаконников of the right to import cars and spare parts duty-free in 1955 - 1961, and 1964; decrease in tariffs twice in 1968, 1970 - 1973, 1976, 1977, 1980 - 1983 At least four times unions and federations reached reduction of penalties for infringement of the traffic regulation. In 1972 Drivers-внезаконники paid only 10 % from size of the penalties imposed for fine infringements. The same year authorities for the first time have defined, what infringements concern to fine, however have declared in order that behind small exception all infringements are insignificant. And, at last, in 1981 it has been solved, that for infringement of rules it is impossible to place buses on penal platforms as it will leave Lima without transport services.

As to participation in work of the governmental organizations, the unions and federations have achieved the privilege to participate in the bodies establishing the prices - in 1969 and 1981;

in the bodies adjusting granting of transport services. - in 1970 and 1985; in the bodies responsible for distribution of routes - in 1979; in management of Fund of financing of ground transport - in 1983 the Unions and federations have reached also position at which in case of non-payment of debts buses are not a subject to confiscation that has lowered their commercial responsibility. At last, having created Fund of assistance ground, to transport in 1980 and Fund of financing of ground transport in 1981, authorities have provided to drivers access to subsidized, малопроектным to credits.

At all these privileges of benefit of drivers-внезаконников have appeared doubtful. As we shall see in the subsequent sections and in гл. 5, the state in exchange for privileges has declared set of claims which we have named " by legalization " where enter an establishment of limiting size of a payment for travel, and also absolutely other status, than at businessmen in other fields of activity. This position provoked periodic crises in work of transport system.

### **Evolution внезаконного transport**

As well as in the previous chapters, we have divided the description of evolution внезаконного transport into stages (this time on seventeen) which allow to track history of public transport, becoming внезаконных structures, their influence on a legal society and how the state solved a problem during many years.

### Origin of mass passenger transportations

Mass passenger transportations the last century became possible owing to occurrence of railways. Result was reduction of the market of passenger transportations as railway routes are difficult for grasping. In 1851 the first railway passenger route has connected Lima with the main port of the country - Callao.

Railways have incurred long-distance transportations, and in Lima traditional hired crews - predecessors of modern taxi, - satisfied needs of small and rather sparsely populated city were kept. By the end of a century the population has grown, the number of crews was increased, and more or less constant routes gradually were outlined. The state in 1874 has accepted the Republics of a rule of traffic first in history and has disposed about an establishment of a payment for travel.

Occurrence of constant routes has facilitated transition from crews to конкам which were, strictly speaking, the first kind of mass city passenger transport. Owners of crews had no other property rights, except for as on crew. Occurrence of routes and rail transport has demanded an establishment of the property rights to routes and has led to a birth of system of the concessions which are given out by the state any wishing to drive конку. The concession fixed a route, the list of services and size of tariffs. The first corporations established a payment for travel which could be changed only under the agreement of parties. In case of need, one of the parties suggested to change a payment, and another accepted, or rejected the offer. For political reasons the state preferred to not change a payment for travel, and corporations demanded its increase.

Technical progress has accelerated development of this kind of services, and at the beginning of XX century on change конкам send electric trams. In 1895 the municipality of Lima has acquired the right to agree about construction of lines of an electric tram, but only in 1903 it has given out the first concessions to various business groups: in January on a line between Lima and Чоррильос and in March on a line between Lima and Callao.

As management of new service became complicated, the state has decided to deal for simplicity with one концессионером. Accordingly in 1905 it has given " the Companies of city railways of Lima " the right to serve some routes, having generated that the tendency to the monopolism, confirmed in 1913 and 1920 when " the Electric and lighting company of Lima " has taken under the control as city, and междугородные tram lines. The state has shown that, that prefers to deal with the

least number of counteractors, and it has forced the businessmen, really wished to enter into transport business and to be fixed in it, to aspire to political influence.

#### Occurrence of motor transport and the end of transport monopoly

Occurrence of buses and alteration of lorries for transportation of passengers have put an end to monopoly of railways and trams in mass passenger transportations.

In May, 1921 Луис Тирадо has received the sanction to the organization of the first bus line on a route Lima - Мирафлорес - Барранко - Magdalena дель the Card. As well as its followers, it owned small business - no more than 10 buses. Fine owners of bus lines were united with owners of automobile repair shops and other fine businessmen who incured service and car repairs. The first workshop on reduction import automobile the chassis in conformity with capital transport rules has been the same year created. It belonged Вито Павоне, to the Italian mechanic, by a nickname Thomas A.Edison Павоне who has the same year collected the first passenger buses on the chassis of lorry " Фиат ". These machines with 22 seats, entrance and street doors were fine buses and have received a nickname "gondola" - in honour of the Italian origin of the inventor. They at once have entered into operation and became predecessors of modern minibuses. First "gondolas" Victoria and Park Universitario served a line between Ла, then they went on city centre, and later - between the center and area Magdalena. Means for opening of these first lines Павоне has received in the Italian bank today renamed into Credit bank.

To 1926 bus service became so popular, that has arisen at least 8 new companies served lines between Lima, Мирафлорес, Барранко and Magdalena дель the Card. So rapid growth was promoted by the program of construction of the roads, begun at president Augusto B. Legia. And if the tram companies had to lay at own expense rails the bus companies could take advantage of advantages of the state investments in construction of streets.

During the same period country residential areas have started to extend and gradually the grounds along the roads going to city centre have been built up. Buses have appeared more adapted to changes of city building, than trams.

#### **Occurrence внезаконных "routing" or collective taxi**

At this time also have appeared внезаконные. They used cars with a body "sedan" as collective or fixed-route taxis. The given type of the car was inefficient, as at small number of transported passengers borrowed too much place on проезжей parts (12 sq.m. on 5 passengers, or 2,4 кв. М on one). But this lack was compensated by weight of advantages.

First of all, the payment for the travel, established under the consent of owners of bus lines with the state, was so high, that allowed drivers of sedans to work with benefit, despite of smaller efficiency of their machines in comparison with buses.

Secondly, a policy of the low prices for gasoline, the general for all governments of Peru down to second half 70th years, did sedans inexpensive in operation. Thirdly, rather small population density and brevity of routes masked increase of intensity of movement.

Drivers-внелегалы firstly used sedans, not worrying about profitability. They could use only sedans which were cheap and are in authorities and owners of bus routes, than larger machine less.

### **Occurrence of the organizations транспортников**

The first organizations транспортников-внелегалов became the committees which have arisen, apparently, in the end of 1910th years. Originally it were small groups of owners внелегальных а taxi, grasped such popular routes, as Ла Victoria-Витербо and Кочаркас-Авенида Bolivia. To resist to the official bus companies acted the same routes and involved for struggle with внелегалами police, the last required the strong organizations to agree with authorities and to coordinate the activity.

With the advent of the increasing number of committees there was the idea of the association which have found political expression in the unions and federations. Many have entered the Union of drivers of public taxi of Lima which together with the Union of drivers of the buses, united drivers of the usual bus companies, was included later into the Central union of drivers. The central union was in turn united with other groups of drivers and has created on April, 16th, 1921 Federation of drivers of Peru (FED).

Similarly to any union, whose overall objective is protection against the state, FED soon has come into the hands of politicians. In the beginning anarchist groups there have prevailed, the majority from which later has adjoined to APRA. In 1925 in FED the beginnings to gain in strength a communistic grouping, and is so active, that a year later the federation has appeared among founders of General confederation of working Perus (CGTP). Anarchists have managed almost instantly to return to themselves authority and have deduced FED from CGTP for the first time, perhaps, to protect actually members of the organization.

Behind all these events even more complex situation disappeared: drivers-внелегалы have found out, that their unique allies - the political organizations specializing on protection of proletarian interests. Before транспортниками there was an ineradicable dilemma as their interests not always coincided with interests of these organizations. As a result they continually entered these organizations and left them, depending on concurrence or discrepancy of interests, showing growing proletarian consciousness every time when they did not manage to convince owners of the transport companies to accept them in the numbers. Eventually, in 1926

транспортники have created own organization - Association of owners city and междугородных buses (APOU) to which should play the important role the next years.

### **Great strike 1930**

The third stage in movement внезаконных has begun, when, having united with owners of the legal companies, they have managed to create the market of transport services and to finish with the monopoly established by mode Легия.

In 1930 the government has given companies " Undergrounds " - to joint association of the Electric company of Lima individually owned a tram network, and the American investors - a monopoly on operation of all routes of Lima. Legal and внезаконные owners of buses in the answer have united forces, have got support of owners of the petrol filling stations also suffered from monopoly, and have called for mass transport strike in Lima. Strike has coincided with a wave of the protests, come to the end falling of mode Легия corrected 11 years.

The conflict has become aggravated in April, 1931 when FED, CGTP and other striking organizations have organized free-of-charge dining rooms for requiring. Demonstrations of solidarity and street demonstrations spread, there were collisions with police. Drivers again have entered in CGTP to strengthen the positions.

Even after to authority the junta headed by David Samanesom Okampo has come, strike proceeded. The junta did not show desire to tear the agreement with company " Underground ". It has aggravated a situation. Cars of the company overturned and set fire, and the government has been compelled to create the arbitration tribunal for settlement of the conflict. Wishing to show gravity of the attitude to a situation, it has invited to enter into the tribunal of such known people, as H.A.Enginas, A.F.Peres, K.A.Dojg and Лопя, A.Bize, K.A.Ugarte, L.Villakorta дель Кампо and H.I.Barreda Бустаманте. The decision of the tribunal was unequivocal: to cancel the monopoly, given companies " Undergrounds "; to open the register of legal carriers for all working in this business; administratively to recognize legality of operations for everyone who already was engaged in passenger transport by May, 1931 This decision arranged all carriers as gave them open space for actions. Besides it has shown внезаконным, that when it is a question of requirements to the state, is effective political methods of struggle.

### **Mutual understanding between legal carriers and the state**

The beginning of the fourth stage has noted been by transformation of the legalized carriers into new partners of the state and gradual putting on on them of numerous legal obligations. It has deprived with their flexibility and has made possible growth внезаконного sectors.

The owners of legal transport belonged to APOUI, have appeared the main winners in struggle against monopoly of company " Underground ". And as they managed to unite groups concerning the rich investors had access to the government, they quickly became defining group in transport sector. As a result the state, which could not establish monopoly to facilitate the control over branch, has found other decision of the same problem: has made the constant partner unique олигополистическую the organization. For legal carriers it meant reduction of a competition. There was a situation of a mutual exchange of privileges between them and the state.

In 1931 they have convinced the state to strengthen олигополию, having forbidden an easy approach to rendering transport services, and in 1936 have achieved even greater: the arbitration has approved a principle недублируемости routes according to which licensing by was not supposed what routes repeated already existing. The position of the state also has become stronger. In 1931 it has demanded from legal carriers of payment of the tax at a rate of 6 % from a payment for travel, allocation of 100 free-of-charge tickets for officials and decrease in a payment for travel on 50 % for the militarians was then at authority. In following year the state has appropriated the right to supervise a payment for travel, that before was done only under the agreement with carriers.

During the second world war when the transport companies experienced crisis because of restrictions on import of cars, spare parts, etc., the state instead of supporting the allies - legal carriers, has intruded directly in sphere of their activity. In 1942 it has formed the first city transport corporation - the Governmental transport commission transformed per 1946 in Municipal transport corporation and in 1948 in Municipal transport service. There were also other serious problems, In 1944 legal carriers have received the sanction first for 20 years to increase payment for travel though from them have there and then demanded to raise from pupils of an elementary school no more than 50 % of a new payment. (in 10 years reduced rates have been widespread to the senior schoolboys, and with 1960 on students.) Increase of a payment has appeared insufficient: three bus companies have gone bankrupt. The municipality has incurred their obligations as could not leave city without transport.

Curtailing of the legal bus companies has opened space for внелегалов.

### **Strengthening of the unions**

The fifth stage was marked by that внелегальные carriers could achieve a political recognition, sufficient for the further development of their activity. It was result of collision between the various groups competed for the control over their organizations.

While legal carriers suffered from excessive good relations with the state, внелегалы gradually strengthened the organizations to benefit by the opened

opportunities of activity and to be recognized, sufficient for its peace conducting. They solved this problem extremely pragmatically: selected the leaders or changed membership in the unions according to volume of advantages which could be received from communications of these leaders and the unions with the state, not caring at all about ideological motives. They used rivalry between communists and members APRA gradually superseded anarchists from a management by the unions, having given to them an opportunity, competing to extract the greatest possible advantages.

The first victory has got to communists. In 1939 their party has supported Мануэля Прадо, the conservative candidate for presidents (which they have nicknamed the Peruvian Stalin) with a condition, that among other it will include Хуана Итем the Moon, the leader FED also the secretary general of communist party, in the parliamentary lists. When the Moon became a member of parliament, it could increase communistic influence in the unions and create for carriers-внелегалов, at least is temporary, conditions for their activity.

In 1945 when to authority has come Хосе Луис Óscar Rodríguez Larraín-and-Óscar Rodríguez Larraín«, supported APRA, members APRA were put forward upward and have received the control above FED which became then a member of Confederation of working Perus (CTP). The moon not only has lost the control over the organization, but also has been excluded in 1947 from Communist Party.

Success APRA was, however, short. As position of this organization in government Bustamante weakened (especially after coming to power as a result of a military coup d'etat 1948 of general Manuelja A. Odria), leaders of carriers - members APRA gradually got in disgrace to authorities and, hence, and to carriers. And at this time Хуан the Итем the Moon which has become now by supporter Odria, has made an attempt again to win FED. It has put forward together with other leaders idea of creation directed against APRA the trade-union organization named by Committee of political action of the Peruvian workers. In 1950 FED has left P. The same year, owing to falsification of results of general election, the Moon, passed as the candidate of general Odria, has received a place, in the Senate, having strengthened that the opportunities in preparation of negotiations of drivers with authorities. Members APRA, in turn, have based the new organization named by Federation of drivers and auxiliary working Perus (ANEXOS) to keep any degree of political presence and subsequently to struggle for the right of the control.

Thus, after the second world war of the organization of drivers-внелегалов instead of completely being integrated into the world of business, have got the political weight necessary for protection of the interests. And in the same way, as political parties have learned to use them, they have learned to use political parties.

### **Crisis of fixed-route taxis and introduction of many-placed machines**

The following stage in development внезаконного transport has begun in 50th years when on change to sedans send many-placed machines with a body of type универсал. Such development has been caused by reasons of profitability. As it was already marked, sedans did not possess sufficient efficiency as, among other lacks, borrowed too much place in the street in recalculation on one passenger. With increase of complexity of routes and growth of requirements to a taxi such position could not be kept long. New machines were contained by nine passengers instead of five.

However in 1950 shortly after универсалы have appeared on lines, they have been resolutely forbidden by authorities. Still influential bus companies with concern looked at new competitors. The in itself increase in capacity of cars already represented threat for the companies. But as внезаконны filled that vacuum which the legal carriers which have been knocked down by the state and own олигополией, could not borrow, number универсалов continued to grow.

### **The first перераспределительные privileges**

The following step has been made, when внезаконны have convinced the state to give to them periodic clearing of duties on import cars and spare parts in exchange for support of the government. The arrangement on the first privilege such has been reached between group of the Moon and mode Одриа in 1955 It authorized for duty-free import of sedans with which through FED were distributed among those внезаконнов who could prove, that was not a member of party APRA. So the long tradition of tax exemption in exchange for political support has arisen.

In 1956 government Odria has been displaced Мануэлем Прадо which in second time became the president. Voices of members APRA were necessary for a victory for it, and in exchange it has offered them "coexistence". APRA again has found influence on the government and could restore influence on the trade unions, weakened by prosecutions from Одриа, and also to revive ANEXOS. Внезаконны again have acted rationally: they have left FED and, in hope for privileges, have entered in ANEXOS which, as before, was engaged in reception of tax exemptions (in 1957 and 1959). To emphasize the new status, ANEXOS has convinced the state to decide (the law 1959), that tax privileges are given only with the consent of APRA. It was the obvious revenge FED for its position in 1955

The group of the Moon, however, was not idle. It has accused APRA of uncountable dark affairs though could not prevent to distribution of privileges in exchange on obedience to the state. In fact owing to these privileges of the organization внезаконнов could increase the influence.

### **Crisis of the bus companies**

The eighth stage has come, when crisis and final bankruptcy of legal carriers have considerably expanded the space opened for *внезаконных*.

By the end of 50th years legal transportations have ceased to be profitable. In 1959 when the company " the Ale-salt Transport " was closed, the unexpected wave of bankruptcies liquidated almost all the bus companies of Lima. To 1960 32 from 42 private bus companies have remained without owners.

The reason of it were at least three factors. First, because of the rigid control of a payment over travel and falling of incomes the bus companies have postponed write-off and replacement of machines therefore all motor pool has decayed and has worn out. Secondly, as *внезаконный* transport was not a subject to the state control, it has appeared is is better adapted for the growth of demand caused by a urbanization of Lima. And, at last, growth of deductions in the social funds created for the blessing of hired workers of the companies, has finally doomed the last to bankruptcy.

As a result the bus companies, having declared bankruptcy and inability to continue social payments, have transferred to the possession actives of workers. Some authors are convinced, that with these bankruptcies not all is pure. For example, Sanchez Leon, Кальдерой and Гуэрреро, citing data of other researches, approve, that many owners regularly withdrew means from the companies and have led to their bankruptcy to not do social payments to the workers or to move capitals to other, more favourable spheres of activity.

The property transferred or to cooperative societies in which all workers received an equal share, or the companies belonged employees where the share of each worker was equal to the sum, due to it from former owners. However new transport agencies operated not so successfully. In 1970 some of them have tried to be united in National federation of transport cooperative societies (FENACOOT) which in 1973 under the insisting of the military government became transport cooperative society " Underground Lima ", and then public transport corporation " Underground Lima " (TLMERS). By the end 1982 it has received grants for a total sum 12,9 million dollars, however its park has decreased with 285 up to 189 cars.

The place of the gone bankrupt companies was borrowed not with cooperative societies and not the companies belonged employees. It have borrowed *внезаконные*.

### **Legalization of minibuses**

At the ninth stage the state has recognized minibuses as the basic vehicle for mass passenger transportations.

Because of wreck of the legal transport companies drivers *внезаконные* have started to replace the sedans and универсалы with minibuses "Volkswagen", the ОНМ or "Форд". Minibuses allowed to transport almost twice more passengers, than a taxi. Replacement was conducted gradually. In 1963 drivers of minibuses were in

minority. After 1963 their number began to grow, but only in 1965 process was noticeably accelerated, owing to what fixed-route taxis have been superseded even from the smallest lines.

Such situation has arisen under influence of the governmental decision on creation of the national car assembly industry. 13 factories have started manufacture of bodies for new minibuses. These enterprises required commodity markets, and the state needed to do nothing how to go towards. In 1965 the state has recognized the carriers used minibuses. In following year it has given concession to the first committee of drivers of the minibuses, created on the basis of former committee of operators of fixed-route taxis. This recognition has not given *внезаконным* powers of the bus companies: committees did not receive neither the rights of legal persons, nor the rights to possession of routes. However the state continued to give such kind of a recognition to operators of microbus lines down to 1968 when it has approved the preferential taxation and other privileges in the field of mass passenger transportations, but has decided to stop delivery of new concessions.

Thus authorities have compelled *внезаконных* to agree for the control of a payment over travel in exchange for partial legalization. At the same time, as the government obviously considered activity *внезаконных* as the passing phenomenon, it has decided to increase the participation in transport sector. On October, 26th, 1965 Provincial advice has created *Парамунципальную* transport administration of Lima (APTL). Similarly to cooperative societies and the working companies mentioned above, APTL operated not so successfully. After periodic plunders of the capital the state in 1976 has replaced APTL with National corporation of a municipal transportation of Peru (ENATRUPERU). But any corporation never became the strong contender *внезаконным*. According to calculations of Institute, during between 1965 and 1982 the state has been compelled to subsidize (directly or indirectly) the transport organizations created by it for the sum 87,5 million dollars only to support them on *плаву*.

*Внезаконные* kept committees as the basic business and political bodies. Committees of fixed-route taxis became committees of minibuses. The organizations of a high level have been compelled to struggle for the right to represent sector more and more influential economically. FED it has appeared in it more successful, than ANEXOS as has created in January, 1967 the Union of drivers of minibuses of Lima and has united 95 %-s' committees. ANEXOS there was only small percent from which it in May of the same year has generated the Union public TBKCFI and minibuses of Lima.

### **Introduction *внезаконных* in bureaucratic circles**

At the tenth stage representatives of these unions have been included in the state structures responsible for the control of a payment for travel and regulation of

transportations. First, soon after an establishment of the control over payment of travel on *внезаконных* routes, such structure became specially created Agency on regulation of a payment for travel (ORETT).

Agency ORETT has been organized for prevention of crisis situations on transport and the control of the prices over tickets. It included representatives of the state, carriers, the majority of the ministries, armed forces, students of universities. The payment for travel has become a subject of the political and bureaucratic tender and as a result has ceased to be a parameter of economic forces of the market, having transformed in a criterion of political force of the parties participating in negotiations. It interfered with achievement of own purposes of the state as negotiations could not lead to the decisions necessary for profitable work of system of transport services. The need of separate participants for strengthening the position in ORETT induced them to demonstration of political force through strikes or the marches of the protest which are not promoted an establishment of the world in a society.

After introduction *внезаконных* in the governmental structures under the control of a payment over travel, per 1970 them have entered into the informal Commission on technics and the work, served by advisory body for Department of safety of traffic. The policy, thus, has got practically into all the decisions, concerning transport.

At the same time *внезаконность* transport accrued. In 1971, in 6 years after a recognition of the right *внезаконных* on operation of microbus routes, they supervised 70 of everyone 100 passenger vehicles, having left only 30 on a share of the usual companies.

### **The big business: buses D-300**

The next stage has come, when, despite of an official interdiction, *внезаконные* have replaced the machines with buses D-300.

Till 70th years *внезаконные* could not use the machine capacity more than 12 passengers as it was clearly forbidden by the law 1965. However increasing needs is there was a decade of the highest in history of Lima of growth of the population, and is equal also the highest level of migration - and insufficient efficiency of minibuses demanded more capacious machines for satisfaction of demand. Association of drivers of transport " *Хосе Граната* " and committee "37-M", true pioneers in history *внезаконного* transport, have taken the initiative.

The unions of carriers knew by experience, that for expansion of scales of activity they need to unite not technical, but political resources. As it was impossible to neglect simply an existed interdiction, they searched enough for the strong allies interested in overcoming of legislative barriers.

The unions have addressed to firm " *Crysler* " with the offer to buy more than 100 chassis of model Д-300 for assembly in Peru. From technical point of view Д-300

is out-of-date three-ton "Dodge" with the petrol engine, made in Brazil and intended for transportation of cargoes, instead of passengers. Then they have addressed in MORAVECO, the national industrial enterprise, having offered it the contract on manufacture of bodies. As the sample the model specially designed for this case in the USA by firm " Wayne ", - the 43-seater bus, almost in 4 times more capacious has been offered, than it was supposed by rules 1965

The scale of operation demanded the financial help. " Хоце Granada " and "37-M" have addressed to the help of foreign bank corporation " Делтек ". They have concluded the contract on confidential management of the capital according to which "Делтек" bought cars for внелегалов, and the last incurred regular payment of a duty. In the contract association " Хоце Granada " as the legal address has specified Кондевилю, was then внелегальным settlement. That fact, that their partners did not object, testifies to a recognition внелегального business.

Though внелегалы also were united with "Crysler" and "Делтек", they still should enter Д-300 into operation, at that that vehicles more than 12 passengers have been really forbidden by capacity. They have thought up smart dodge: infringement of the law, and a political victory of authorities have convinced the government, that here not. Minister of transport and communication general Anibal Mesa Kuadra has been invited to the solemn beginning of operation of new greater buses. The representative of " the Peruvian revolution " could not refuse participation in such historical event.

This victory is indicative in every respect. Enterprise skill внелегалов has used a distortion of public consciousness at which in a choice of the base machine it was necessary to use not technical, but political criteria. Besides it became clear, that внелегалы, similarly to the legal predecessors, can reach agreements with the state about ignoring the law.

### **Privileges, but not the property rights**

At the twelfth stage passed active negotiations between the state and внелегалами, come to the end in 1976 the open confrontation. As a result внелегалы have lost the полулегальный the status and have been compelled to work exclusively within the limits of внелегальной systems.

FED, joined in 1969 to headed by communists CGTP as last has been approved by the military government, has left it in 1973 to establish closer communications with the government. It has joined Confederation of workers of the Peruvian revolution (CTRP) - to trade-union body of dictatorship and by that has so strengthened the position at negotiations with authorities, that any committee wished by something to achieve, should enter into it. In July, 1976 Хуан the Item the Moon could declare, that транспортники " have entered into the government ".

FED tried to strengthen **внезаконные** the rights to routes to make transport services more stable and guaranteed. However these attempts had no success. On the contrary, close political communications between carriers-**внезаконниками** and the military government have advised militarists that is possible, having limited the rights of carriers and having strengthened their dependence to strengthen the control over them. According to it annually with 1970 on 1975 was vetoed introduction of new routes though by way of exception already existed routes received the status regular. The state compensated such uncooperative attitude to **внезаконникам** granting to them on a line FED every possible privileges: released from taxes, from the customs duties on cars and spare parts, from a duty to carry out the certain rules.

Any of these privileges did not compensate lack of security and stability, and the disappointed carriers in July, 1976 have declared the strike, accompanied furious political demonstrations. In **отместку** to former allies the military government cancelled the given out concessions. And up to 1981 **внезаконники** operated without any governmental recognition, leaning only on force **внезаконной** systems. Thus they have become stronger so, that in 1979, still refusing to them in the right to opening of new routes, the state has assigned on **внезаконников** the responsibility for ' the sanction of transport conflicts.

At the same time in FED the management was replaced. In 1978 FED has left from CTRP and became the independent union, and Хуан the Item the Moon has conceded leadership Эрнанду Туб Лофоку. Any of these events has not prevented **внезаконникам** to increase the influence in sphere of transport services. In 1981 81 from 100 buses belonged to them.

### **Search of even more capacious machines**

The following step has been made, when owners of buses have again entered the transaction with the international partners. Aspiring to satisfy a growing demand, carriers have decided to pass to operation of buses to 80 passengers.

After oil crisis 1973 and falling of general Velasco in 1975 to the military government was necessary to leave a policy of the low prices for gasoline. Operation petrol Д-300 became the extremely dear, and the government on former did not allow to raise a payment for travel. **Внезаконники** have come to conclusion, that it is necessary to pass to more capacious machines. To the first became Д-500 - the lorry of same firm " Crysler ", with longer the chassis, than at Д-300. MORAVECO and Thomas have designed a body calculated on 71 passengers. Because of the petrol engine this bus was not so attractive, though some owners changed the petrol engine on diesel firms " Перкинс ".

After Д-500 there were other large-sized buses. There was " Crysler Д-800 ", also with a body of the Peruvian manufacture, but with the engine, capable to work

both on gasoline, and on diesel fuel. Then they had diesel engine and 60 landing places has followed "Вольво-ВВ-57", designed specially for transportation of the passengers.

But all it was insufficiently. Moreover: there was a weight of difficulties at the conclusion of contracts and reception of credits. Then the unions and federations have decided to operate directly. FEI? Has assisted in creation of the corporation named "Транспортес С.А." (TRANSA). The problem of corporation included purchase of machines for внелегалов. FED has taken advantage of the tariff privileges given last years of military dictatorship, and has contacted representatives of firm "Mercedes Benz" in Argentina which were interested with joint business. So specially designed buses on 80 passengers, with bodies of the Argentina manufacture and diesel engines have been got.

The Peruvian firm "Сканиа Вабис" has offered group транспортников, not entered in TRANSA, the bus "Марко Поло" the Brazilian manufacture. It was rather modern bus specially designed for passenger transportations, supplied by the diesel engine from a turbo-pressurization and allowed to transport up to 80 passengers. The price of each bus made 72 thousand dollars there were already financial problems; "Сканиа" through the headquarters in Brazil has addressed in the Brazilian system of insurance of export credits with the request to consider carriers as final buyers of cars, and the insurance company has agreed.

For granting guarantees 4 methods were used at least. First of all representatives "Сканиа" in Peru have analysed value of a route. Then they have united the interested carriers in groups on five person - with greater and smaller quantity of property that everyone could be charged for another. It was offered to them to put in pawn the houses on 50 % of the price of buses. Though the majority of carriers lived in внелегальных settlements and had no legitimate rights of the property for habitation, "Сканиа" has gone on this transaction. The estimation of houses and the grounds has been made and the mortgage on which drivers after reception of buses transferred the rights to houses and the ground to firm "Сканиа" is signed. As an additional guarantee to firm it was pawned also the new bus.

Внезаконное the property right and routes, thus, became a comprehensible guarantee in commercial transactions. It has been implicitly recognized, that внезаконная the system is so steady, that allows to make similar transactions even after the state cancelled all concessions неформалов.

### **Legality kills**

At the fourteenth stage внезаконны have been practically legalized, with what decline has begun.

Change of a political mode in 1980 has given внезаконным an opportunity to strengthen contacts to the state, and authorities had an opportunity to increase

pressure upon them. In January, 1981 велегалы have organized a massive strike which has ended with signing of the compromise agreement between their leaders and authorities. The state again has recognized their rights to the organization of new routes and has included their leaders in structure of the Joint technical commission created for regulation of activity in the field of transport on the following four years. In exchange the state wished to get support велегалов or even their political neutrality, and also their constant readiness to suffer the political control over a payment for travel and above the given sphere of services as a whole.

As a result of the control the payment for travel during with 1980 on 1984 has decreased on 15 % in real expression, and the debts (expressed in dollars) for purchase of large-sized vehicles has increased owing to devaluation on 1675,5 %. Simultaneously the government has imposed gasoline, and this tax in a combination to inflation has increased the price for gasoline for 1727,3 %. In the circumstances, instead of approving a realistic payment for the travel, considering expenses for purchase and import of cars and spare parts, an output for the market of capitals, etc., the government has selected the traditional policy of detailed discussion of changes, бюрократизируя and even more complicating a state of affairs.

In January, 1984 the state has based Fund of financing of the ground transport, intended for subsidizing owners of buses and financing of their purchases. It was authorized to them to pay tax debts in parts, they were released from such taxes, as the tax to sale, the tax to a wage fund and the tax to capitalization of actives after reassessment; the proceedings directed against drivers stopped all. Later two months have been established the special mode of the import which has legalized duty-free import of cars in case of their assembly inside of the country. In 1985 in last desperate attempt to rescue drivers-велегалов the state has published the Law on ground transport, that "... To promote creation of system, which would correlate a payment for travel to real expenses for granting of services to enable owners of public transport to avoid financial crash ".

But all these measures only prolonged an agony. Any of them could not compensate reduction in price of travel, growth of taxes and rise in price of fuel, burdens of the state control and necessity to meet to new requirements. Owners of buses had to remove details from one machines to continue work on others.

In this situation their leaders have been compelled to declare: " We eat own cars ". When incomes have fallen also work became unprofitable, they have ceased to serve the cars. Велегалы have started to be ruined.

### **New generation велегалов**

Last stage in this history has begun, when there were pirates, i.e. велегалы, systems used a gone deep crisis for capture of the given field of activity.

While drivers of buses repaired the worn out cars, sat completely in debts and spent a lot of time for writing red tape and negotiations with the state, their positions were gradually won by new generation внелегалов, and almost the same receptions with what their predecessors restricted the bus companies up to 1965

Recognized by the modernized variants of the same machines, as twenty years ago, and on piracy tags on a windscreen, new внелегалы extended very quickly. By our estimations, in their 1984 it was totaled nearby 6800 against 7969 drivers-внелегалов, whose routes were exposed to capture.

Just as before the bus companies, owners of buses have lost an opportunity to satisfy a growing demand for services and have been superseded by those who, did not bear charges on business management with the state and could take for travel higher payment and provide services of better quality. (on the average pirates take for the ticket for 63 % more than the state quotations.) recession and revival of passenger transportations have repeated the past, however now victims became former aggressors. The same can occur and to pirates. The state has soon started to absorb them, providing with it all care in exchange for submission to the governmental control.

The volume внелегальных passenger transportations nevertheless continued to accrue. To 1984 former внелегалы and new pirates owned 91 of everyone 100 machines in public transport. Only 9 belonged to the usual bus companies.

### **Secret of periodic bankruptcies**

The operating logic and evolution of transport services justify an ironical conclusion: every time when the group legal or внелегальных businessmen manages to create the finished system of services, this group starts to be ruined.

The bus companies have superseded company " Underground " from the market and have been in turn superseded to 1965 by owners of the buses given a up the place to new pirates of 20 years after. The history of transport represents a vicious circle of bankruptcies for which the legal system created by the state is substantially responsible.

However the legal system was never considered as a problem. People preferred to brand внелегалов, bureaucracy or the government. Between 1926 and 1984 the responsibility for transport was handed fifteen times: behind a branch of executive authority which supervised transport up to 1921, the Ministry of public transport in 1926, the Ministry of public works in 1927, the Ministry of roads and motor transport in 1929, Management of omnibuses of the Ministry of roads and motor transport in 1934, Coordination advice on transport in 1942, the Ministry of ground transport and transportations in 1946, the Ministry of transportations in 1963, the Ministry of city transportations and the Ministry of ground transport in 1969, the Ministry of

transportations in 1972, transformed in following year in Executive committee of ground transport and the Ministry of ground transportations in 1981 has followed

Business, probably, that during many years the legal system did not allow to be shown to enormous energy and enterprise talent legal and *внезаконных* businessmen. Similar, that the system is created for interaction only with very small quantity of the interested groups, instead of with businessmen as a whole. The official recognition of carriers is considered not as the right, and as the privilege granted in exchange for acceptance of political intervention and numerous burdens, including the control of a payment over travel.

Such situation has completely changed behaviour of drivers of transport and has moved a competition in the field of transport services from cost and quality on safety. Instead of reduction of prices on tickets and improvement of quality and the comfort, many years methods of a competition were reduction of safety and payment of bribes to officials. One of many privileges received in exchange for submission to the governmental control, was easing requirements to safety from authorities. When the government has decided, that drivers of buses should pay only 10 % of the sum of the penalties imposed by police or when it has forbidden polices to detain buses at almost any infringements of the traffic regulation, it has actually lowered stimulus to safe behaviour.

Attempts of courts indirectly to punish infringement of safety rules through presentation of civil suits have been broken by the same by. The legislation precisely defines the contract responsibility, namely the responsibility of the driver of a vehicle for its passengers, and *внеконтрактную* the responsibility, i.e. the responsibility of the driver before other participants of traffic. However legal procedures so *запутанны*, and punishments are so ridiculous, that expenses for attraction of the driver to court much more exceed received benefits. In other words, the system is those, that to the state to establish the detailed control over transport services easier, than to create an appropriate infrastructure both for passengers, and for other participants of traffic.

All aforesaid has made system of transportations in Peru one of the most dangerous in the world, much more dangerously, than in large cities of the Europe. In road incidents in Peru perishes in 11 times more people, than in Germany, and in 19 times more, than in the Great Britain. In 1984 one failure with a fatal outcome had in Lima on 260 motor vehicles, in Germany - on 2183 and in England - on everyone 3729 motor vehicles. These tremendous figures characterize also size of material losses of a society which has made in 1984 9,15 million dollars Such price the Peruvian society is compelled to pay, as the purpose of the State expenditure is the political control over drivers, instead of the technical control over vehicles. The developed situation has led to wreck of hopes and huge disappointment of thousand

individual drivers which owing to only work and savings provided 91 % of mass transportations.

These problems can suggest, that **внезаконный** transport should be completely replaced by the public transport corporations aimed at observance of standards of safety and quality. But such decision would demand grandiose expenses. The institute has counted up, that if the state has dared to exclude or forbid **внезаконный** transport only 9 of everyone 100 machines of public using could leave on a line and serve only 21 %-s' those who daily uses this service. Sharp reduction of city passenger transportations very hard would strike on the poorest layers of the population. In the some people **внезаконных** settlements movement practically would stand.

To replace **внезаконный** park of buses to the state in 1984 it should to lay out 620 million dollars - 41,2 % of all state investments in the country. Plus annual investment on the average 49 million dollars more to satisfy growth of demand for transport. At preservation of an existing payment for travel it is loss 93 million dollars a year. To put it briefly, investments for replacement **внезаконных** would increase and without that huge budgetary deficiency by 7,2 %. And it without taking into account a corresponding infrastructure (filling stations, repair shops, etc.) which would demand not less than 400 million dollars

There are not considered some more questions. Why drivers-**внезаконники** could not receive the lawful status without infringement of the law? Why they have received only de-facto recognition but so never and have not found quite lawful position which would provide with it reliable independence though their activity in accuracy answered the purposes of the state? Why, when they have achieved some legalization, it has led to their bankruptcy? Why the Peruvian society could not define the true reasons of chaos in transport system and instead of it has begun to condemn drivers-**внезаконников**? We are convinced, that these problems **порождены** legal system of Peru to which consideration the following of the chapter are devoted.

## **Part the second**

### **Chapter 5. Costs and value of the law**

**The price of submission to the law**

**Costs of access**

**The price **внезаконности****

**Consequences of costs from **законности** and activity beyond the framework of the law for all national economy**

**The legal system predetermines development**

**In the previous chapters we have in details considered the problem on how has appeared and developed **внезаконная** activity in three certain areas. We counted, that, leaning on empirical researches, we will manage to describe fundamental characteristics of system **внезаконных** the norms revealed by researchers of Institute of freedom and democracy, and to track their historical evolution, to reveal logic moving by them.**

**All this has shown, that the life in our society demands enormous and vain costs which those who operate legally or **внезаконно** are compelled to bear equally. We have seen, how there are captures as intensity of traffic grows and the number of road and transport incidents increases. As constant legal uncertainty distracts resources, forces and an ingenuity from fruitful activity on the political actions, having for an object to avoid legal sanctions and to achieve a recognition appropriated **внезаконных** the rights.**

**Was considered, that these problems **порождены** set of the reasons - migration, unfair distribution of incomes, unemployment, even a climate. But in process of continuation of our researches it became clear, that any of these reasons cannot explain size and complexity of the arisen problems. Migration it is possible to explain growth of number of inhabitants of capital. Unfair distribution of incomes - the fact of migration. Unemployment explains a labour redundancy. The climate shows, why the certain type of city construction is possible in the given geographical conditions. However any of these factors does not answer, why people decide to grasp the ground for construction of houses, to borrow streets for trade, to take hold of routes for maintenance of transport services. To put it briefly, nobody in a condition to define, why one prefer to operate within the limits of the law, and others - **внезаконно**, also as nobody can predict results of this or that process.**

**That is why we have decided to address to **внезаконникам**. So we have learned, that their main claims - to the law, have understood, what for they needed a recognition within the limits of legal system. We have decided to study the legal party of a question and to define, how it influences decision-making -**

**whether to operate within the limits of the law or внелегально, and also on results of this choice. For a quantitative estimation of this influence the Institute has lead a number of field researches.**

**Below results of our researches are presented. First, we show the price of submission to laws, - and it affects in decision-making on the beginning, continuation or the termination of activity within the limits of the law or внелегально. Then it is a question of the price of infringement of laws - than it is necessary to pay for absence of protection and the additional opportunities arising at activity внеправовых of institutes. We shall show also, in what all this manages to the Peruvian society as a whole. And, at last, we shall consider value of the law in general and especially during development.**

**Researches of Institute confirm, that efficiency of economic activities depends on the law adjusting it. In this sense we shall speak about " good laws "and" bad laws ': the law is good, if it guarantees economic efficiency both promotes it, and is bad, if interferes with it or worsens it. Because of bad laws we should pay the expensive for законопослушность; because of absence of good laws we are compelled to bear costs of activity beyond the framework of the law.**

### **The price of submission to the law**

In any activity people define the attitude to законопослушанию twice: when they begin it and when solve the problem - whether to continue further.

For the analytical purposes the Institute uses two concepts: " the price of access " to a field of activity and " the price of continuation " it. Such approach allows to study all requirements with which citizens for reception of the right legally should satisfy to be engaged in the certain economic activities, and then all requirements, it is necessary for them to satisfy to remain within the limits of the law. We aspired to learn, how these costs influence an individual choice.

We estimated various costs of access to activity within the limits of the law and costs of continuation of this legislative life. But it is necessary to understand, that the average citizen similar does not do anything. The one who denies legal system or uses it, only rather approximately counts, in what submission to requirements of the law and that it is possible to receive in exchange can manage. The choice is based not on an exact estimation, and on vague representation - similar to volume, that the wood is more terrible than separate trees. Our research shows, that readiness of Peruvians to operate beyond the framework of the law substantially is result rational, though also not so detailed, estimations of costs законопослушания.

### **Costs of access**

Any of the kinds of economic activities studied by Institute cannot be engaged on the lawful bases without preliminary performance of some requirements. To define

these requirements and the expenses connected with them, the Institute has studied four fields of activity in which *внезаконность* was the basic social problem: the industry, housing construction, trade and transport.

### **Costs of access to industrial activity**

For measurement of costs of access to the industry the Institute has been compelled to resort to imitation. Beginning the researches put in a basis of this book, we have heard the most inconsistent estimations of that, it is how much complex to develop industrial production. The legislative businessmen interrogated by us testified, that preliminary procedures are rather burdensome, and operating beyond the framework of the law simply shuddered at conversation on them, but lawyers approved, that procedures are simple enough and demand a few time. We have decided to understand it.

In the summer 1983 the group of researchers of Institute has based in suburb of Lima factory on tailoring and has passed all the bureaucratic procedures necessary for its registration according to the law. For simplicity the group simulated expansion of business by one owner, instead of company or joint-stock company.

With this purpose they rented a premise, have established there sewing both knitting machines and other necessary equipment, and also have employed four students of university for passage of various bureaucratic instances under supervision of the lawyer well knowing administrative law. The kind of activity chosen for imitation not only is widely widespread in Peru, but also is rather representative. For registration of the such enterprise it is necessary to pass 60 % of bureaucratic procedures, the general for all kinds of industrial activity, and 90 %-s' procedures necessary for not incorporated enterprises.

It has been decided to test on itself all without exception writing red tape as it is necessary to do it to the simple person, and to give a bribe only after execution of all legal requirements when the bribe became unique way to finish registration and to continue experiment. During experiment from a command of simulators of 10 times extorted bribes for acceleration of registration. Twice they have been compelled to agree, as other way to continue experiment it was not represented. In eight cases they have avoided bribery though it has appeared hardly. Imitation has been organized so as if simulators daily come from *внезаконного* settlements the Country house the Ale El Salvador to various administrative centres. They passed from office in office, did detailed records, measured time spent for different formalities, and have collected weight of demanded documents.

Results have shown, that the person with modest means should spend 289 days for the bureaucratic procedures demanded for filling of 11 documents, and only after that can open the small enterprise.

After end of imitation we have calculated costs on all necessary procedures. By our calculations all has together managed in 194,4 dollars almost ten-monthly expectation of the sanction to open business would lead to loss of the net profit in 1036,60 dollars the General expenses for lawful registration of the enterprise have made, thus, 1231 dollars - 32 minimal monthly salaries.

These initial results have shown not only difficulty of access to industrial activity, but also absurdity of the statement, that laws do not create problems. They have shown also absolute aimlessness of the order: despite of 289 days lead by simulators in offices, and 11 sanctions received by them, in one of these offices nobody has suspected, that participates in game.

### **The price of access to habitation**

Following step was studying the price of access to habitation.

To use a method of imitation it has appeared impossible as for this purpose it would be necessary to create association or cooperative society and to involve a little cot the person in participation in long experiment. We managed to use two indirect methods. Analyzing the maintenance of laws, we could find out characteristics of various procedures;

analyzing an administrative practice, we have defined average duration of these procedures. The given research covers those unique three situations, in which authorities have allocated the ground under construction during between 1981 (year of acceptance of the Law on municipalities) and date of carrying out of researches by employees of Institute. It is necessary to note, that during the same period has occurred a little cot captures.

We have found out the following: if the group of rather poor people decides to receive the city ground for housing construction legally, it should achieve the official sanction to using the empty state ground, to present the plan of a urbanization, to receive the sanction to construction and the certificate of conformity of structures to the approved plan. Process borrows on the average 83 months (6 has laid down and 11 months) if to carry out all the established requirements.

In this case the law demands is disproportionate greater expenses. There is a sense briefly to consider each of the basic stages of this process.

### **Reception of the state ground**

If the interested parties cannot buy already urbanized site of the ground and decide to construct the house on quite lawful bases, they should ask the sanction to reception of the state ground.

This procedure borrows 43 months (3 years and 7 months). In it participate up to six ministries, including the president of Republic. In view of duration of procedure

the Institute has decided to find out sequence of necessary administrative steps and to answer a question, whether is such duration of all procedures consequence of resistance of bureaucracy or it is result of necessity of strict execution of the established rules. 43 months necessary for reception of the sanction, grow out 207 bureaucratic procedures which mention 48 various government agencies. Each procedure borrows about one working week.

It is necessary to note, that any person getting the state ground, acquires in the end of process the defective right of possession. For example, unlike the usual owner of a private property, the addressee of the state ground can sell or put in pawn it only with the consent of the provincial government. Such legal discrimination touches only people with small means, more all requiring in purchase of the state ground for construction of habitation.

It is not necessary to believe, that dark process of reception of the sanction goes in itself. It demands time, the information and resources. To count up costs, the Institute has taken a certain hypothetical association of housing construction consisting of 244 members for the basis, and has calculated expenses of each member of association for purchase fair by the official sanction to a plot of land where it could construct the house.

By our estimations it is necessary to spend 526 019 dollars for performance of procedures of reception of the sanction of association Each participant spends 2156 долл.. In other words, everyone who at that time received the minimal monthly salary, should give the full income for 4 years and 8 months.

### **The coordination of an infrastructure**

The ground allocated by the state should be mastered. According to definition from National building rules it " the process including change of use of the rural or empty ground and providing creation of municipal constructions ".

Construction cannot be conducted any way - in conformity with tastes and financial opportunities of owners. Any plan of building of a site should consider first of all the purpose of the ground certain by zone rules, the minimal quality standards and as much as possible safe load for infrastructural constructions.

Only at conformity of the plan to all criteria there can be begun building of a site. Necessary coordination borrow on the average 28 months and include at least three stages, each of which demands attraction of city advice-Lima: statements of preparatory development, the statement of plans and deliveries of sanctions to modification in these plans.

### **The sanction to construction**

And, at last, when the ground is already received and created an infrastructure, it is possible to begin building. But all over again it is necessary to receive the sanction to construction and when it stopped - to receive the certificate of conformity of building earlier to the approved plan. The institute has found out, that for reception of these two documents in city council it is required usually about 12 months.

It is obvious, that people grasp the ground and build houses in infringement of the law first of all lawful channels of access to the ground are extremely difficultly passable.

Senselessness of restrictions is done especially depressing if to recollect, that from force of national territory of 5 % now is used for the economic purposes. Economic value of 95 % gives to the rests only activity of people. Building - a usual way to inform value to the ground, but this way also is limited by the law.

83 months need to be killed on reception of sanctions to the ground, on creation of an infrastructure, on construction. This term should be considered as the main obstacle doing законопослушание so dear, that for people with a modest prosperity with a unique output building is внелегальная. It is a typical example of the bad law.

### **The price of access to trade**

Further the Institute has studied conditions of access to the trade leaded under the law. Only existing restrictions are capable to explain, why лимчане, breaking the law, trade in streets or in the markets. The institute has studied two ways, offered to everyone wishing to trade on the lawful bases - opening of shop and construction of the market or shopping center. In the first case we used the same approach, that at studying the industry: we simulated opening shop. In the second we have acted the same as at studying housing construction: we investigated existing laws and have analysed the markets or the shopping centers constructed by street dealers.

### **Opening of shop within the limits of the law**

Researchers behaved as usual people with a modest prosperity: passed through various procedures without any cunning, carried out made demands and tried to avoid bribes. For carrying out of experiment the area San Juan де Мирафлорес has been chosen. It is new area prospering in the commercial attitude with good roads. Suitable premises have been rented and equipped, and experiment has begun.

Imitation has shown, that for lawful opening small shop it is necessary to pass a number of bureaucratic procedures in three various governmental departments. For this purpose 43 days and 590,56 dollars that makes 15 minimal monthly salaries as of a date closed of experiment are required.

It is clearly visible, as existing rules push people on neglect with the law.

### **Construction of the market**

The institute has studied five real cases, when sellers were organized to construct the own markets. These cases cover the basic trading areas of city.

Research has shown, that construction of the market within the limits of the law needs approximately 17 years - from creation of the mini-market before occurrence of properly equipped market. If to subtract time necessary for dealers for **внезаконного** of association the period of expectation will make at least 14,5 years and can serve as a pure parameter of size of expenses for access to the present market. (the large builders operating within the limits of the law, spend for all this 100 days).

Difficulties of construction of own new markets explain, why many become street dealers. In fact the markets appear only when dealers are organized and process of accumulation of forces and resources begins. The same difficulties that fact speaks also, that many remain street dealers much longer, than would like. But despite of everything, for last 20 years on each state market dealers had been constructed 12 markets. There will be no restrictions, they would construct much more.

### **The price of access to transport**

And, at last, we have approached to a question on the price of access to transport. Here all is much easier, than in the industry, housing construction and trade, and at the same time is more dramatic. Differently, lawful access to this kind of activity does not exist.

Therefore the Institute did not spend imitation and did not consider real cases as they were not, and has addressed directly to the law to define existing obstacles. Present procedure of reception of the right to transportation of passengers is those.

First, only the state entitles to transport. No group of carriers can **организоваться** and request about allocation of a route. That completely excludes freedom of access to transport activity. Secondly, only authorities can solve, on what routes it is necessary to increase transport service. After needs are revealed, nobody has the rights to address with the offer of the services as authorities are obliged to offer a new route to committees existing in area or the companies. The last receive the new rights, and there is an expansion of a route. Only if the licensed carriers not in a condition to satisfy inquiry, authorities have the right to involve the third party in this activity.

In interests of accuracy the Institute has undertaken the further research, proceeding from a hypothesis, that legal obstacles do not exist, but all bureaucratic obstacles remain on a place, and the ministry of transport and communication still bears the responsibility for business such.

Proceeding from it, representatives of Institute have interrogated officials of the ministry to learn their assumptions of what could be hypothetical procedure of reception of access to transport activity. Two opportunities have come to light. First, the group of people can **внезаконно** generate committee and request concession on a

microbus route. Secondly, the group of people can create corporation and request concession on a bus route.

To receive concession on a route of a minibus, 26 months, and on a route of the bus - about 27 months are necessary approximately.

We have expressed the basic results of our researches through parameters of costs of access to the industry, housing construction, trade and transport. These costs are created by action of the governmental regulation including different on the value and the nature of a measure. This regulation, undoubtedly, has arisen from desire to correct lacks of the market and to improve planning or to make private activity of more rational, but has given a boomerang effect. There were the new expenses discriminating people on a level of the income and guaranteeing that who is in the best financial position, easier access to advantages of legislative activity. And poor men had to be engaged in quite good kinds of activity - construction, trade, manufacture, transportations - beyond the framework of the law. At us bad laws.

### **The price of continuation of activity within the limits of the law**

Having revealed interrelation of people and laws at the beginning of different kinds of economic activities, the Institute has studied this interrelation during the activity. During this period people also are compelled to submit to the big number of various rules to remain within the limits of the law. For a designation of the given phenomenon we have thought up expression " the price of continuation of activity within the limits of the law ".

In a broad sense this expression covers set of complex situations. It equally means the costs generated law, - taxes, subordination to bureaucratic procedures, observance of some obligatory norms at a management of the personnel, higher rates of payments for public service, - and also the costs indirectly created by legal institutes as a whole - instability of legal system, негарантированностью the property rights, an inefficiency of legal proceedings at the resolution of conflicts or collecting of debts. As it is impossible to capture all these aspects at once, the Institute has concentrated on studying of direct expenses. We have analysed reports on profit. The analysis was limited to only industrial enterprises.

We have selected 50 small industrial firms employing no more of four workers. Firms worked in branches for which high relative density внезаконной activity is characteristic: хлебопечение, manufacturing of knitted products, tailoring, tailoring of footwear (except for rubber and plastic), manufacture of furniture and joiner's works.

Analyzing this sample, researchers have found out, that законопослушание manages to a small product company in 347,7 its % посленалоговой profits and in 11,3 % of its industrial costs. Differently, if not expenses for submission to the law,

profit of firms so their savings and the potential investment capital, would be four times above.

Our sample has helped to define also a relative role of different kinds of expenses. Researchers have grouped costs on groups: tax, not tax and charges on public service. It has appeared, that 21,7 % of expenses on законопослушание are necessary on taxes, 72,7 % - on other purposes demanded by laws and the remained 5,6 % are expenses for public service. In other words, from everyone 100 dollars, which the small industrial firm is obliged to pay to remain within the limits of the law, 22 dollars are necessary on taxes, 73 dollars - on other purposes demanded by the law, and 5 dollars - on public service.

" Other expenses demanded by the law " include charges on administrative procedures demanded by the law. To time, absorbed by these to procedures, the Institute has analysed activity of 37 lawfully registered companies operating in areas with rather high level внезаконности: in manufacture of food stuffs, wooden furniture, textiles and clothes, chemical products and plastic, a printed matter, hardware, mechanical products and toys. It is revealed, that the companies spent approximately 40 % of general working hours of their administrative personnel for execution of bureaucratic procedures. On the average each of these employees devoted two day in a week to such work - huge waste of resources!

Costs on законопослушание do not allow to dispose freely of the profit resulting activity of firm, and thus influence potential profit of the companies. The last can use only 23,3 dollars from everyone 100 dollars of the "surpluses" representing potential profit, and remained 76,7 are spent for performance of requirements of the law. Contrary to possible assumptions, only 17,6 dollars from this sum go on payment of taxes; 59,1 dollars go on other purposes.

First of all we can draw a conclusion, that taxes - not the main problem, and what not the tax policy defines a choice - to operate within the limits of the law or внезаконно. The core of a problem is made with other charges demanded by the law. Businessmen should submit to weight of rules, beginning from filling infinite number of documents in government agencies and finishing rigid administration of the personnel. Similar, to what exactly it renders solving influence on a choice between business management within the limits of the law or внезаконно. Our analysis testifies, that labour-consuming technologies raise burden законопослушания and push to capital-intensive technologies. The people who have been pushed out from manufacture whom also not on forces законопослушание, move in внезаконно. As in Peru it is a lot of more likely work, than the capital, result is inefficient use of resources, the acting society as a whole is destructive. Laws of Peru encourage more likely supercapitalization of manufacture - simply due to mechanisms which do lawful employment excessively burdensome.

We can conclude also, that costs on obedience to laws, most likely, strongly influence tactics and strategy of business, define at any "know-how" as receptions of conducting business, and results. These costs change distribution of resources and raise industrial expenses as a whole, limit mobility of factors of manufacture, increase costs of transaction. Irrespective of efficiency of used technologies, it changes profitableness of firms. Prosperity of the company to a lesser degree depends on that, how much well it works, and in greater - from the costs imposed on it by the law. The businessman who manipulates these costs or communications with officials is better, appears more successful, than the one who is anxious only by manufacture.

And again before us results of the bad law.

### **The price внезаконности**

Gradually having found out, that for activity within the limits of the law it is necessary to pay, we have understood not only why people operate beyond the framework of the law, but also real value внезаконных систем. If внезаконники have wished to establish the new code of laws, means, operating outside the law and even in its infringement, they have lost something important. We had to look narrowly, that they have lost.

We have gradually found out, that внезаконность - not best of the possible worlds, that it assumes huge costs, that people try to avoid these expenses all conceivable, but in absolutely unsatisfactory ways, that infringement of laws as a whole nobody is necessary and that the obvious chaos, squandering of resources, captures and daily courage are hopeless and causing attempts to create alternative to system which has given up to them in the protection. This opening has allowed us to put forward the additional concept: the price внезаконности.

We shall distinguish here costs внезаконности, образуемые distinction between legal and внезаконным business, and the costs arising because of absence of the good law. (last concept is result of attempt to define, people when they decide to conduct business beyond the framework of the law should refuse what effective legal mechanisms).

We have been limited, however, by the empirical supervision which have been carried out in внезаконных places of work and a residence. Therefore we can offer only the general list of restrictions illustrating, and that only partly, huge losses which are born with the country because of discrimination legal structures. In addition, in the given work we recognize that business are conducted or is perfect within the limits of the law, or perfect внезаконно. In a real life, certainly, it not so: many kinds of legal business are partially внезаконными, and on the contrary. The cases studied by us are those, as legality and внезаконность is relative concepts; but for the sake of simplicity we shall assume, that внезаконники operate in all outside of the law, and legal business - never breaks lawful borders.

### **The price внезаконности**

First we have tried to define a difference between lawful and внезаконными kinds of activity or business and to establish the general costs attracted by activity beyond the framework of the law.

It is obvious, that, first, внезаконный business demands huge efforts to avoid punishment from authorities. For this purpose there is a set of ways which we shall consider under the order. Secondly, внезаконный business is a source of capitals for lawful activity without any real return movement as on it the advantages accompanying legal activity do not extend. Thirdly, внезаконный business suffers from consequences of evasion from some taxes and infringement of laws on work.

Below we shall show our conclusions about the price of evasion from punishments, about costs of transfer of resources, leaving from some taxes and infringement of laws on work. We shall try to explain, how in practice there are the costs distinguishing legal activity from внезаконной and representing, hence, costs of actions beyond the framework of the law.

### **The price of evasion from punishments**

The first significant difference between the owner внезаконного business and its legal colleague consists in huge expenses внезаконника on not getting. It constantly risks to be punished for absence of the sanction, non-payment of taxes or for infringement of any regulation. During researches we have found out, that it is the basic source of concern at внезаконников. The owner внезаконного business, by definition, does not carry out some or all of the requirement, saves on the legalized expenses, however bears the expenses connected with evasion from corresponding punishments.

There are different strategy to avoid capture and punishment. The cores assume following set of actions: to scatter workers on small and undistinguished points, to not advertise the goods and services, to not appear in the certain markets, to bribe officials. Visiting underground factories, we have found out, that necessity to disappear holds down development of manufacture. Внезаконники deliberately limit volume of operations and if there is a need to increase manufacture, distribute workers so, that them happens no more than ten in one point. It is a good way of masking, but it is interfaced to restraint of a production efficiency. It is obvious, that this rather widespread consequence of work beyond the framework of the law.

Внезаконный business is insufficiently capitalized not only because of absence of access to credits, but still that use of the certain equipment does its easily found out. Besides some kinds of the equipment are favourable for using only at presence of significant number of workers, and it raises risk of detection.

Other feature **внезаконного** the business, also following from necessity to disappear, consists that here it is impossible to advertise freely the goods and services and it is necessary to rely only on reputation. It allows to disappear from authorities, but interferes with expansion of business. According to Management of small business of the USA, 2/3 all clients involve external, street signboards. Advertising compensates a unsuccessful site. Shadow manufacture cannot use these methods. To not get, **теневики** avoid the share markets and trade fairs. They simply have no access to the tools of trade accepted here, such as actions, bills and so forth to strike a bargain with **внезаконном**, it is necessary to spend a lot of time for gathering of data on potential trading partners, and it means, that costs on reception of the information and realization of transaction grow. Have **теневики** access to traditional and lawful means of trade, they could operate more quickly and with smaller expenses, and to buyers would be to address on the corresponding market enough.

In order to prevent punishments it is necessary to spend for payoff of authorities much. Interrogated **теневики** approved, that spend from 10 15 % up to the gross revenue for bribes and commission, and legislative businessmen spend for the same purposes no more than 1 %.

As in Peru of all labour efforts of 61 % are made beyond the framework of the law, it is obvious, that there is rather **протяженная** a border between the black market and the governments. Some kinds **внезаконного** business go in a deep underground, however, incomprehensibly as **потайность** 61 % of all executed works can be provided without assistance of authorities. Regular corruption undermines bases of authority as a whole. It is possible enough definitely though and not without cynicism, to approve, that **внезаконные** instead of taxes bribes, which economic same sense pay. However bribes are accompanied with a undesirable element of a crime that is not present at payment of taxes.

It is possible to tell also, that bribes partly are the form of insurance as are aimed at exception of uncertainty concerning the losses arising at punishment from authorities. The bribe pays protection against suit - the insurance from action of the law. There are indisputable certificates, that bribes proportionally more than insurance premiums as the valid risk of suit cannot be quantitatively estimated. From strictly economic point of view they are simply inefficient.

### **Costs: a transfer of net profits**

The second difference between legislative and **внезаконными** businessmen that **теневики** numerous unilateral certificates of a transfer of the capital in legal sector carry out that for shadow sector there is a pure loss. These transfers it is important to consider legislative business for that understanding why clear advantages from infringement of the law bring not the greater income, than. At the analysis we

considered taxes, costs from use of cashes and expenses for accumulation of material actives.

Often approve, that the competition between shadow and legal economy is dishonest not only because the shadow sector saves on the costs generated by observance of laws. It also ostensibly uses free-of-charge services of the municipal services offered by the state, compelling the last to shift on legal business all burden of financing of the public budget. This reasoning is incorrect. Our data show, that there are at least 3 basic of the channel on which the shadow economy constantly pumps over resources to the governmental and other legal institutes: the indirect taxation, inflation and distinction in interest rates.

Daily between shadow and legal sectors the set of transactions consists. Not paying in the tax from the sales, *теневики* pay its every time when get something in legal sector. As here sales are accompanied by registration of checks or waybills, they should fork up on indirect taxes. It occurs not always as some sales are not fixed, however quite often to evade from payments very uneasy. Shadow transport, for example, is the main payer of the tax to gasoline.

There are many transactions at which *теневики* are compelled to translate means to the government in the form of the tax from sales and duties on import. By estimations of Institute, in 1985 the shadow sector in this form has transferred the state about 813 million dollars that has made 5,7 % of a total internal product for this year and 41,4 % of all taxes to expenses.

Inflationary costs are one more kind of taxes. Many economists define inflation as the tax to the money, raised by the government from a private sector for financing the excessive charges or budgetary deficiency. When the prices grow, and money lose purchasing capacity, each person transfers the state a part of value of the money resources. It especially mentions those who stores the most part of money in the form of a cash, namely - *теневиков*. They use, as a rule, cashes and seldom resort to bank system - not only being afraid to be found out but also to secure themselves against depreciation of money - unlike those who stores savings in hard currency or on percentage accounts. Loss of purchasing capacity of the cashes serving a shadow turn, is the form of transfer of resources in legal sector, and the part of these resources is directly withdrawn by the government. By estimations of Institute, in 1985 The volume of such transfers has made 554 million dollars or 3,8 % of a total internal product for this year.

If we shall combine last two kinds of transfers it will turn out, that *теневики* have transferred the state of resources to the sum 1367 million the dollars, equivalent 9,5 % of a total internal product. This size has much covered all the governmental investments for that year, the dollars which have made nearby 465 million

And, at last, the transfer from shadow sector in legal economy is carried out due to a difference in interest rates for the credit. According to Institute, in Lima interest rates on a shadow credit market in June, 1985 were not less than 22 % a month against the maximal rate in 4,9 % in usual banks. So оцутимое the inequality in the price of money is caused by that теневики have no access to the bank credit that compels them to resort to intermediary. The intermediaries having access to the cheap bank credit, transfer it in shadow sector under the highest rate. Such enormous difference of interest rates can be partially carried on the account of the raised risk of conducting financial transactions in the black market, and also on the account of that fact, that the shadow market of the capital rather конкурентен and interest rates reflect costs of alternative use of financial resources more precisely.

If the shadow sector had access to the usual credit, it would save in 1985 501 million dollars - 3,5 % of a total internal product in it to year. To imagine the size of this transfer, it is necessary to recollect, that it in 1,4 times is more than the sum paid by legal business in the form of the tax to incomes and on a fixed capital.

The total volume of a transfer in legal has made of shadow sector in 1985 almost 1868 million dollars, or about 13 % of a total internal product. Already one it puts under doubt the superficial statement that теневики do not bring the contribution to public charges.

By-effect of use of cashes are costs on accumulation of material actives. Being afraid of inflationary depreciation of the money, reached with 1983 on 1985 more than 100 % a year, many теневики preferred to accumulate stocks, instead of money. As a result many purchases of the capital equipment, a personal estate and the goods of long storage were done in advance. As the equipment is indivisible, and expenses of the capital are high, such preliminary purchases mean, that many investments теневиков very much are not effective.

It is evident. Settlements Vnelegalnye, the markets, industrial workshops leave impression of incompletness. Houses незавершены, building materials are fallen down on sidewalks, the equipment is not completed. To someone can seem, that consequence of congenital laziness of Peruvians, but it not so is those. Simply теневикам it is more favourable to accumulate means in the form of materials, instead of in money because of what the financial system does not work.

### **Than it is necessary to pay for evasion from taxes and infringement of laws on work**

The third distinction between figures of legal and shadow sectors consists that the last at all do not pay direct taxes or do not carry out laws on work. It, undoubtedly, economic for partially compensates the costs created by the shadow status, and even outweighs benefits of legal position. For example, if the law establishes the minimal

wages at a level above market in shadow sector the salary and a wages will be below. That is why the shadow sector is the main employer of not qualified labour.

Lack of shadow business that it is adhered to низкотехнологичным and to unproductive methods of manufacture. And advantage - that during the periods of recession теневики can employ and dismiss workers without any problems, except for unless moral. In legal sector, on the contrary, work is an element of constant costs; legal manufactures cannot react to fluctuations of demand as flexibly, as shadow.

However the general tax from sales equally mentions both legal, and shadow sectors. Though it looks as the tax to the gross revenue, actually it is the value-added tax why it is raised on everyone of stages of manufacture. At the second stage, for example, it is necessary to pay the tax to the gross revenue, but it is possible to subtract charges on purchase of semifinished items and raw material. It is the main handicap for shadow suppliers of the intermediate goods. The buyer pays the tax to the gross revenue, however cannot subtract charges on the intermediate goods bought from shadow suppliers. It puts теневиков in rather unprofitable position.

The general tax from sales, hence, induces теневиков to work in two extreme points of production: first, at the closing stages where the added cost makes the most part of the general retail price. It enables to leave from the tax just when it is done by the greatest. Secondly, - at the initial stages when it is easy to evade from payment of the tax to the added cost (cultivation of agricultural crops, manufacture of a brick, granting of services in-home, etc.). Теневики, thus, are excluded from техноемких areas of manufacture of the intermediate blessings partly because of action of tax system. Perhaps, the greatest costs here appear that the tax system interferes with growth of labour productivity.

### **Than it is necessary to pay for absence of the good law**

Having found out, that shadow position generates costs, we were asked by a question: whether elimination of these costs suffices to make of shadow sector the best of the possible worlds? We were convinced of the further, that it not so. Теневики suffer not only from the внезаконности, but also from absence of legal system which would protect economic activities. Differently, they suffer from absence of the good law.

When owners of underground factories use the best efforts to avoid detection when inhabitants внезаконных settlements spend time and forces for protection of the property and on performance of procedures on its legalization when street dealers cannot offer comprehensible guarantees under financing of construction of the market or purchase on credit, it means, that they do not have property rights which could be used as maintenance of contracts. And such rights are necessary for the effective organization of economic activities. The society as a whole also suffers from negative

consequences внезаконной activity from what follows, that we do not have capable, надконтрактная legal system.

Good laws these should provide three elements: the property rights, performance of contracts and надконтрактную legal system. Absence of such laws creates the extremely burdensome cargo of costs which внезаконны are compelled to bear in exchange for clearing of the expenses connected with the legal status.

### **Than it is necessary to pay for absence of the property rights**

Traditionally in Peru the property rights were understood, how an opportunity to use, possess, dispose and make a complaint for material and non-material means within the limits of the law. More superficial interpretation reduces even this concept only to movable or to real estate. However here we wish to give wider interpretation to concept of the property rights, based first of all on its economic importance.

The classical theory of the right approves, that the person can own the real and personal rights; the first define the attitude to things through the property, possession or *узуфрукт* (the right of use of the another's property or its fruits), and the second - the attitude to other people through contracts. Such division excessively splits up the validity as the impression is made, that communication between two groups of the rights is not present. Actually it is a lot of these communications, and main, in our opinion, consists that the person can have in the property or own not only things, but also contracts. Accordingly, at each personal right implicitly there is a real right which connects it directly with the subject of this right.

It means, that the property rights can extend not only on houses, cars, technics or the goods, but also and on rent agreements, currency certificates and their free convertibility, on all kinds of the credit. In summary loss of the property rights can come not only owing to confiscation or *экспроприации*, but also owing to more complex and seeming externally harmless methods of regulation, what rent right, freezing of savings or measures against gamble.

Thus, under the property right we mean all these rights, both personal, and real, giving to their owners exclusive and inalienable laws to them. In other words, the property right is an opportunity freely to have any rights (individually or together with others) and freely to alienate them. Clearly, that for absence of the good law first of all it is necessary to pay in absence of the guaranteed, reliable property rights. Hence, we should explain three basic conclusions to which could come and which have allowed us to define more precisely the costs arising at *внезаконных* because of absence of these rights.

Our first conclusion consists that *внезаконны* use and keep resources accessible to them not so effectively, as those who is assured of the rights. If they cannot protect the rights to the ground, habitation and the equipment they are not too interested to

put here means. People build less, if there is a risk, that constructed will be withdrawn by the state or the private person; and to be spent also begins nobody precisely on expensive innovations if then someone another can appropriate results without any indemnification. The result appears reduction of cumulative investments.

Гарантированность the property rights and protection against confiscations, on the other hand, induces owners to put means in the property. From strictly economic point of view, hence, true function of the property rights - not maintenance of benefit for private persons or the groups possessing these rights, and investment with their stimulus to increase value of the property by investment, modernizations or a reasonable combination of the means with resources of others, that finally it is favourable to all society. All this proves to be true statistical researches of Institute in **внезаконных** settlements of Lima. As we have seen in the chapter devoted **внезаконному** to housing construction, at comparison of settlements **Mariscal Кастилья** and **Daniel Alsides Karrion**, having similar social and economic characteristics, owing to presence of legal security value of habitation in first of the mentioned settlements was in 41 times above, than in the last. Later, surveying sample in 37 settlements, we have found out, that at presence of the legitimate right of the property value of structures was in 9 times above, than at its absence. All speaks that presence or absence of the property rights directly influences a level of investments.

- that **внезаконные** opportunities free are deprived the second conclusion to alienate the property. They cannot use in its more favourable image or as maintenance of credits. It limits mobility of their property as factor of manufacture and limits labour productivity.

The third conclusion consists that **внезаконные** significant means in protection of the possession put and create thousand different organizations to give to the property publicly-legal character. These **внезаконные** the organizations consume huge quantities of time and other resources, but cannot force not observing corrected members of the organization to do the contribution to maintenance of their activity.

Many decisions in these organizations are accepted by the majority of voices. However when each owner has only one voice, there can be serious complications as distinction in intensity of preferences voting is not considered. We shall take an example **внезаконного** settlements where there is a plan of construction of the road, estimated in 3000 dollars From 50 families living in given settlement, 10 families give on 200 dollars on construction, and 40 - only on 50 dollars It means the others, that the society as a whole allocates 4000 dollars for construction of road, and the road appears profitable business as its value exceeds expenses for its construction. However we shall assume, that to each family will suggest to pay, for example, 60 dollars the Offer will be rejected, as 40 from 50 families will find itself lost - in fact

they estimate potential benefits from realization of the project personally for themselves in a little bit smaller sum. Thus, rather effectively operating the individual property, inhabitants **внелегальных** settlements have no mechanisms of management and attraction of means for development and payment of collective projects. The state would solve this problem very simply - having collected means in the form of the tax.

Undoubtedly, there are also other ways of the decision of the given problem, however they as a whole more dearly and are less reliable. For example, it is possible to build road and sidewalk only before houses of those owners which have paid a payment. However it will expose not paid members of the organization in unprofitable light. Inability to come to legally binding agreements increases difficulties **неформалов**.

In some situations the spirit of cooperation allowing leaders of community to appeal to altruism of the members and to provide surprisingly high level of cooperation nevertheless is shown. But remains the fact, that absence of mechanisms of compulsion considerably reduces potential borders of cooperation **внелегалов**. In other words, though there are rather altruistic moods, but exist as well conflicts of interests which cannot be resolved by methods **внелегальной** coordination.

If to consider all three **вышеупомянутых** a conclusion - that **внелегалы** use and store the resources inefficiently; that they cannot freely alienate the property, use it for more valuable alternatives or as the mortgage; what is the collective organizations are not capable to compensate absence of legality, - it will be easier to define, in what absence of the property rights manages.

Let's address now to the price of access to **внелегальной** activity. We shall begin with the price of access to the ground under the construction, extracted by capture or through **внелегальную** sale, and also as a result of long process of consolidation of the rights which as we saw in the chapter, devoted to habitation, begins with the expected property rights and terminates in legally recognized property. As the reader, should be, remembers, **внелегалы** get access to the ground without simultaneous reception of steady legitimate rights for the ground and that on it is constructed. Threat of exile hangs above them very long - while their rights will not be completely recognized. Even if the probability of that the given ground will be demanded by the state or private owners, is rather conditional, threat exists and limits readiness **поселенцев** to invest.

As a result **внелегалы** are inclined to invest in household to the electrical engineer and cars, i.e. in the movable property, instead of in construction of waterpipes, roofs or drainage constructions. Something is not unusual presence of cars, TVs and other convenience in **внелегальных** the settlements which have been built up **обшарпанными** by shanties. Hardly surprisingly and absence of investments in sewer and clearing systems that creates serious threat to health of inhabitants.

Absence legalized ' the register of the property rights complicates check of reliability of claims. To that there are many reasons. First, it is more complex to allocate the lawful debts guaranteed by the disputable property as there is no centralized account of such transactions. Secondly, for the same reasons, it is more complex to be protected from claims of the third party for the property. Thirdly, there are proved disputes in occasion of the property, but there is no register which would allow to study history of a question.

Внезаконная the system of registration exists in many settlements, but at times it far is not full. Therefore незаконная transfer of the property creates weight of problems. For example, the expected property right of a certain person can admit neighbours and the third parties owing to the certain personal characteristics, for example, to popularity a society. In other words, claims on the property are based on informal communications which are difficult for transferring the potential buyer. In this case the potential buyer will be compelled to spend time and money to find out, up to what degree these factors influence reliability of the expected property right, and to study, whether it can protect this property with the same art and small costs, as the seller. As we saw in the chapter, devoted to the habitation, one of most widely widespread methods is visiting the assemblies spent by the organizations of area. There the seller can present the buyer as new owner of the ground which agrees to submit to conditions of the contract on capture and all additional agreements.

Generally speaking, these reasons prevent to use the property and as a security for credit that is one of traditional advantages of possession of the property. In fact the creditor bears the same considerable costs, as the buyer, trying to make sure, that the property belongs to the borrower and that in case of невозвращения the credit it will receive on it the same rights, as the former owner. It increases the size of percent raised by the creditor for the loan provided by the expected property right or its equivalent; that is even worse - more often the credit simply is not given.

Complexity of transfer of the property reduces stimulus to invest in it: in fact незаконным it is necessary to own the property during long time before their rights to it will be lawfully recognized. Those who operates within the limits of the law, on the other hand, can increase value of the property, not caring about time as their rights are recognized from the very beginning. There are the legal counteractors, engaged building and fast sale of sites. Such counteractors at times even specialize on large-scale investments in development of an infrastructure, benefiting from scope of works. It just that benefit by which are deprived незаконные.

Rare теневые which all the same venture such operations, very much risk. The client who has ordered the house, can change the mind and refuse it at any stage of the project, and there are no lawful opportunities to receive from it indemnification. But also the buyer can pay cash, and as a result not see the house, put to it under the

contract. At last, **внезаконные** are compelled to do all back to front. Within the limits of the law all over again get the ground, develop it, build up, and then - occupy; **внезаконные** all over again occupy, then build, then develop and only in the end of long process receive the legitimate right of the property. Such sequence is obviously uneconomical.

### **The price of impossibility to use contract system**

From the economic point of view, contracts are means of the organization and transfer of the property rights. They allow the parties to unite human and material resources for manufacture of the goods or services which then can be used with the maximal benefit. If it so the good law should provide an opportunity of action of this mechanism.

Schematically contracts can be divided on two groups: in one two or more parties enter attitudes in occasion of the property, and in others where the parties also enter attitudes in occasion of the property, there is a legal person for consolidation and executions of mutual obligations. The first are usual contracts as, for example, contracts on sale or storage, and the second are already partner agreements as a result of which there are such business organizations as the companies, the limited liability companies or cooperative societies. The capable state can facilitate fulfilment of certificates on transfer of the property rights and the organizations of joint activity of owners, having provided performance of all concluded contracts by force of the government and guaranteeing activity of the legalized standard business organizations.

These auxiliary legal tools also does not suffice **внезаконным**, and their absence manages rather dearly. We shall consider before those costs which are created by impossibility completely to use usual contracts, and then that arise because of absence of the lawful business organizations.

The empirical work done by us has clearly shown, that it is hard to court to provide performance of contracts between **теневиками** or because of absence of documents - contracts consist basically orally, or because of simple impossibility of the parties to address in court as they are connected relative **внезаконностью** the activity. Therefore **внезаконным** it is necessary to care of reduction of damage, possible at refusal of one of the parties to carry out the contract. QHH should or refuse expansion of business over its present scales, or to find alternative to lawful compulsion which so effectively would provide performance of contracts.

Contracts, which performance can be provided by force of the law, give reliability to obligations of participants and at times stipulate punishments for infringement of conditions. The fact, that default of the contract can entail application of sanctions, induces the parties to take reasonable, **выполнимые** the obligation and prevents to give the unreal promises, having for an object to push other party to the

conclusion of the agreement. The legal system, giving to all citizens immediate access to capable system of justice, is the reliable and checked up means of simplification of transaction.

Other advantage of valid contracts is that they allow the parties to enter into favourable long-term attitudes. For example, if the businessman has the contract, that the client will get the given quantity of the goods for some period of time it can enclose means in machines and the equipment, necessary for manufacture, and at the same time to pay the debts which have arisen because of purchase of this equipment.

On the other hand, теневик, putting means in technics, risks much more - both because it can find out and because the contract has no validity. At the big risk of that the client will not carry out of the obligation, теневик can refuse an investment of means in the equipment that will bring damage as to business, and a society as a whole. From its part, the client also cannot be assured, that теневик will keep a contractual price. If the buyer does not have other source of deliveries, теневик can lift cost prices directly in day of shipment. Being afraid of such Situation, the buyer goes on risk and enters into the agreement only if benefit is very great. All these restrictions so increase costs of the conclusion of transactions, that some of them so never and are not carried out.

It was found out also, that the costs connected with impossibility legally to conclude обязывающие contracts, увеличиваются\* with growth of a turn. For example, the owner requiring the capital for purchase of additional technics, should present the certain guarantees to creditors. As it is extremely improbable, that at теневика there will be all necessary documents, creditors cannot be assured, that know all necessary about debts and obligations of the borrower. They establish higher, than for legally operating businessman, percent under the loan as it is the most simple way of a covering of the risk consisting in absence of legal guarantees. Внелегальный the status, hence, actually in all cases interferes with reception of economy due to expansion of scales of manufacture. In the previous chapters we have shown, that внелегалы have managed to create system of norms for regulation of the activity. Though these the ingenuity also has caused enthusiasm of some scientists, substitutes of the law work not so effectively, as legal system. The lead interrogations have allowed us to reveal alternative methods of increase of reliability of contracts. One of them consists in investment of time, forces and money in development of steady friendly mutual relations. Теневик, undertaken to become the constant purchaser, hopes to induce the supplier to do deliveries in due time. It goes on advantage to both parties, as the buyer, as well as the supplier, is interested in respecting with obligations. For punishment of partners it is possible to inform on their unconscientiousness to the third parties and to spoil reputation. In it there is

nothing new: even in legal sector threat of publicity is effective, especially in rather small circle where all each other know.

Opportunities of such methods of influence are narrow enough. A lot of time and forces are required to create reputation and the certain attitudes, and the last are limited by those who aspire to the conclusion of the contract. The people who only have recently located in the market, do not enjoy confidence of suppliers or buyers as they have no the settled reputation. We have found out, that suppliers often do not deliver beginners the goods of due quality or deliver them not in time as prefer old clients. Only when beginners will carry out many transactions, the opportunity of long-term attitudes becomes effective stimulus. At the first transactions *внезаконно* bear greater costs as absence of reputation does their contracts less attractive, percent and the prices - higher.

We were convinced, that even if the beginner and got reputation, other party for difficultly predicted reasons could not execute the contract. As everyone is anxious by an opportunity of such risk, shadow businessmen aspire to a greater variety of suppliers and buyers, than legally operating businessmen. Instead of buying one thousand fasteners from one supplier, the shadow tailor will buy on 200 pieces at 5 different. Therefore the volume of manufacture at these suppliers is insufficient to be economic, and it rises the price per unit of output and reduces an opportunity of hiring of workers.

Even after an establishment of good mutual relations one of the parties can lose trust to another. Rather probably, that else before full break of attitudes one of the parties will show perfidy. If the supplier of fasteners is assured, that the tailor will not repeat the order, it can make a decision to not ship last paid party. The tailor, from its part, is capable to not pay last party as does not consider it necessary to keep in touch further. If both parties realize, that infringement of the contract will not entail punishment, the situation can strongly worsen. Fears are capable to ruin commercial attitudes in a germ and to deprive both parties of those benefits what they could have, be at them an opportunity to sign the legal contract.

Other way of the control over accuracy of execution of the contract consists in careful and long supervision over other party. In our example the tailor can check up each of the ordered fasteners. This procedure is quite justified in a context of shadow business, but represents not cheap way of that achievement, that in legal sector is provided with granting of the quality assurance. For the lack of a guarantee *теневик* it should be constantly vigilant to quality of the goods. It conducts to waste of resources.

Reliability of contracts raises business management only with relatives or fellow countrymen. *Теневики*, the partners which have suffered from unconscientiousness, address to the families, relatives or friends in hope, that group

pressure will force guilty to compensate caused damage. In the similar image the person who for the first time has arrived to city, soon starts to understand, that anybody except for relatives or fellow countrymen is not measured to enter with it into attitudes. From our interrogations follows, that is better there are business at those migrants who has found influential relatives in Lima.

We have noted also widely widespread tendency "to enter" friends in family to make mutual relations more reliable. The senior on age with which there were close and respectful attitudes, often is called as "uncle", and the close friend-coeval - "cousin". Enough time and resources is required to create and support a wide network of friends, "uncles" and "cousins", and it constrains development of the wide effective market. As a result the markets of manufacture, work and the capital become isolated on service small groups of the people who have received the recommendation instead of remaining opened and to promote concentration and specialization of manufacture. So the opportunity of buyers to compare with the price and quality of the goods of many suppliers is reduced, and stimulus decrease to make more effectively, to expand the markets.

Reliability *внезаконных* contracts can be raised, involving collective bodies, for example committee of inhabitants of quarter, association of street dealers or committee of drivers of minibuses, - as guarantor of conscientiousness of partners. Such groups incur functions of legal institutes and bodies of the government - to guarantee, that agreements will be executed, as *условлено*. However compulsory opportunities of such organizations always below, than at good judicial system. Dearly and difficultly to create the mechanisms parallel to judicial bodies which would allow a society to consider and define reliability of the complaint. Moreover, such private tribunals cannot force to evidence of witnesses from other groups, and therefore it difficultly establish the facts, resolve disputes or settle problems if it concerns people from different groups. The similar organizations should take up also charges on development of own rules and their finishing up to data of members of a society.

Lacks *внезаконных* do not mean systems, that the reputation is not the important motive of execution of the contract even in legal sector. Legislative people prefer to deal or grant a loan to those whom they well know, and buyers in legal sector investigate and supervise quality got. A difference between legal and shadow sectors only in one: the reputation is more important also contractual uncertainty above when access to effective proceeding is limited.

Last means of maintenance of reliability of contracts in the world of shadow business is threat and in rare cases violence. If we shall assume, that our tailor has more recently opened business and is simple not in a condition to spoil reputation of the well-known supplier of the fasteners which have broken the contract, it needs to employ only murderers to mutilate guilty. In the shadow market with the big fluidity

of sellers and buyers, there is wide enough demand for violence over infringers of contracts. The violence is used in the several purposes. Instead of employing a gang which will guarantee execution of contracts that is not very desirable any more, теневики often pay in it for own protection. As in any way it is impossible to prevent use of violence over those who operates within the limits of the law, there are additional costs for a society as a whole.

The nature of the black market prevents to benefit by lawful partnership. Теневикам the major means of association of resources and accumulation of riches is inaccessible. These two functions do lawfully created business organizations, the companies with limited liability or cooperative societies so important economically.

Economic value is created in manufacture. Обувщик, for example, takes the work (working hours), money (the financial capital), tools and a leather (the physical capital) and will transform them to footwear. One worker can make slightly, that is why so the principle of a division of labour is important. Some workers, summarizing efforts, become more effective than if worked separately. Means, a key to creation of value in association of work, the capital and ideas on an effective and long-term basis. We shall give an example, illustrating importance of this process.

The worker selling the work to the employer for long term, will be improved, naturally, in the working speciality. However eventually there will be a risk, that its skills will lose value for other employers and consequently it will start to demand the certain guarantees of employment. The employer who has enclosed means in training of the worker, can agree on the long-term labour contract to secure investments in its skill.

The situation becomes complicated with the advent of the financial capital as the short-term loan, can be week, does not allow time to consider idea, to introduce it and to derive benefit from this. Besides financing of business at times demands presence of tens or hundreds investors, each of which realizes, that the borrower can appear insolvent, and any of which does not supervise it directly. That is why there are business organizations. Such organizations will allow to define long-term obligations and transaction between workers, clients, creditors, suppliers and investors in terms of agreements, on partnership which are realized through such executives as managers and directors of the enterprises.

The business organizations represent a combination of the standard contracts accessible owing to existence legal establishment and creating a legal opportunities for more effective business management. We could tell, that these organizations are similar to clothes of mass tailoring, сшитой how the interested parties if they had time and imagination to sew to a measure would like. Not having a lawful basis, it is impossible to establish the rights and duties of the numerous parties, to make real association of initial resources on a productive and long-term basis.

Difficulty of access to lawful means of association of resources and distributions of risks, divisions of the responsibility and realization of long-term economic activities represents an enormous brake for shadow economy as dooms it to the lowest level of production, reduces assortment of the made goods and interferes with introduction of numerous technical innovations. Теневики cannot unite the property the several person, in common her operate and guarantee, that business will not suffer from death or leaving of one of members of group or the manager. It is hardly surprising, that the Institute could not find even one large shadow enterprise having the sufficient capital and modern technology.

Limited liability, possession of actions and participation in the capital concern to advantages of the business organizations. We shall consider in brief, that means for ТЕНЕВИКОВ inaccessibility of these tools.

By means of agreements on partnership it is possible to limit risk of commercial participation in the certain size of the capital. And теневики are not capable to limit risk, creating legal persons distinct from, and therefore are not capable to limit and the obligations in size of participation in possession of business. If the enterprise suffers failure, their personal means appear not protected.

The businessmen operating within the limits of the law, dispose of resources more freely, allocate the certain fields of activity and distribute the interests between the various enterprises so that possible crash of one has not mentioned others. Besides the principle of limited liability facilitates business management with trading, financial or industrial partners as begins real to define sphere of business and limits of guarantees without studying all communications of the owner. To other parties simply enough to check up books and accounts of the enterprise with which they deal.

Financiers, generally speaking, extremely reluctantly deal теневиками and give credits only under very greater percent and in rare cases. In fact they here cannot limit the participation by frameworks of legally established financial attitudes that would allow to avoid tracking of all possible actives and obligations теневиков, asking the credit.

ТЕНЕВИКАМ the system of actions is inaccessible also. As they do not have actions, they cannot transfer the property simply by sale of the documents representing the capital. They have no opportunity to use this system and for distribution of risk, between several partners. Are inaccessible теневикам and the rights connected with possession by actions. There are no actions which could be incorporated as maintenance of personal credits; there are no actions which could be incorporated in the form of узыфрукта that the third party benefited while the owner keeps the possession; there are no actions by means of which younger partners would manage to protect themselves, there are no ways to appeal against in court the administrative decisions infringing individual interests.

For теневиков there is no way to increase the capital by attraction of new partners as there is no access to the abstract mechanism of actions which allow to own manufacture in common. Not having access to the share capital, they cannot buy a part of the enterprise, but only - the machine or the equipment.

Also теневики cannot precisely convert the obligations in the action so and to overcome time difficulties, giving a part for the sake of preservation of the whole. That is they do not have opportunity which the law gives to legally operating businessmen.

And, at last, теневикам it is very complex застраховать the business for decrease in risk. The business as thus it is necessary to be lawfully registered is possible застраховать itself, but not, to give the official reporting, to give data on size of a fixed capital. The insurance companies put forward also so-called "ethical" requirements according to which the holder of the policy should respect with laws in force. When has failure the bus, the underground factory burns down and the house, - losses not восполнимы falls. If теневики had insurance guarantees and could distribute risk between many participants, they would expand the activity.

To put it briefly, if теневикам these opportunities were accessible, they could expand the business, including by means of the credit. For private investors would be available, hence, more opportunities for investment, for multiplication and диверсификации incomes. However all this cannot be used effectively in such country, as Peru, owing to constraint of the markets of the capital, ущербности legal system and many other things институционных defects. Even the large companies do not use in Peru all these opportunities in full.

### **Than it is necessary to pay for an inefficiency внеконтрактного the rights**

The inefficiency внеконтрактного the rights creates the third kind of the costs, having the real reason absence of favorable laws. This version of the right covers the damage which has been not stipulated by contracts, and, thus, protects interests of all.

The shadow sector influences a society as a whole, besides that the administrative device adjusting this activity, simply is absent. In other words, this activity creates costs for all society.

Let's consider transport. As we have shown in the chapter devoted внезаконному to transport, care of management by buses influences a condition of safety or well-being of set of people. Theoretically drivers could agree with each other and with pedestrians about observance of care and accident precaution. This agreement would be in the general interests. In practice, however, so it is impossible: only on a 3-kilometer route the driver should agree with more than one hundred other drivers and depending on area more than with one thousand pedestrians, but also, it is necessary to be assured, that on a route there will be these, instead of other people. Authorities should establish all over again game rules (machines move on the right

party of street, pedestrians - on sidewalks, cross streets only on transitions and so forth).

Reduction of risk of damage or damage as a result of individual activity is traditional is function of the state. There are also private decisions, for example, the insurance. It is possible to unite both decisions: the law is capable to demand purchase of insurance policies to compensate consequences of failures. Compulsory insurance of buses can cover risks of passengers, pedestrians and drivers of other machines. Presence of the insurance provides with the rest indemnification in case of imprudence or negligences of the driver. Besides the insurance company automatically presses on drivers, increasing the size of insurance payments for those who supposes many incidents or behaves obviously irresponsibly, and in extreme cases terminates the policy.

Distinction testifies to importance **внеконтрактного** the rights between **внелегальным** construction of habitation and **внелегальной** transportation of passengers also. We saw, that in both cases the behaviour **внелегалов** testifies to their energy, the initiative and organizational talents, i.e. about presence of qualities, **важных** for business success. Both of a kind of activity begin with captures on which pushes comprehension of opportunities and desire to sate an extending market. But inhabitants of Lima perceive **внелегальный** transport as greater threat, than **внелегальное** housing construction as **внелегальный** transport is much more dangerous.

Inhabitants **внелегальных** settlements build the houses, and they to the greatest degree can suffer from a unsuccessful turn of events. Any source of threat can be revealed and eliminated at once. Sociologists would tell, that inhabitants **внелегальных** settlements are capable "to localize" consequences of the actions.

On the contrary, drivers of buses are only one of many groups which interests are mentioned with a municipal transportation, them and created. Passengers of buses, also as pedestrians or passengers of other machines, are interested in that the system worked as correct image. As they do not belong to the organizations of drivers and are too diverse to create own organizations of self-defense, unique means of their protection can be the law. When it is not present, everything, that we receive, these are microbus transportations which are good and effective in sense of a fare, but are monstrously irresponsible in relation to the rights of others. Drivers have no way to localize the problems as it is done by inhabitants **внелегальных** settlements, hence, interests of others the system **внеконтрактного** should represent the rights. But it is not present.

When there is no **внеконтрактного** the right covering shadow activity, or such right it is inadequate and it is applied by not due image, the shadow economic activities can become very unprofitable for a society. It reduces value of its social contribution and increases unreliability. As we saw in the chapter, devoted to

transport, a high parameter of death rate and увечий, and also serious lacks of a safety, - and similar problems exist and in other sectors of shadow economy - do not leave also doubt that the law is inefficient. In addition, in a similar situation infringement of the law becomes so widespread, what even figures of legal sector start to follow this example therefore the level of safety sharply falls, causing damage to all society.

Consequences of costs from законопослушности and activity beyond the framework of the law for all national economy

Making a start from representation, that both legal, and shadow activity the costs generate, we have found out, that split of a facilities on these two sectors renders negative influence on economy as a whole, expressed in decline of productivity, reduction of investments, an inefficiency of tax system, rise in price of municipal services, delay of technical progress and numerous difficulties in a formulation of macroeconomic policy.

### **Decline of productivity**

As we have found out at discussion of legal sector, excessive governmental intervention leads to waste of resources. Businessmen should spend a lot of time for performance of set of the governmental instructions, and numerous restrictions reduce flexibility of decisions and conduct to inefficient use of resources. Productivity falls.

It is complex to support it when the governmental restrictions interfere with association of resources when taxes and tariffs deform the prices of materials and products, and the control of the prices destroys stimulus to manufacture. The same is fair and in case of when the bureaucratism including the requirements to the official reporting and other procedural rules, increases expenses, and laws on work do mobility of a labour actually impossible and employment of the new personnel - excessively dear.

We know, that when теневикам it is possible to avoid handicapes imposed by rules, they use resources more effectively, than legal businessmen. We know also, that costs внезаконного the status, including затрудненность access to the credit and inaccessibility of legal tools, as a whole conduct to falling productivity. That fact, that shadow manufacture more likely labour-consuming, than capital-intensive, in itself defines low productivity. On our supervision productivity теневиков averages only third of productivity in legal sector.

Besides when labour and social regulation conduct to growth of costs on work, the legal companies in the answer reduce hiring work and increase charges on the capital. In other words, the attitude "work/capital" at them below. It means, that the legal sector does not use the major productive resource of the country - its labour, and the country offers the citizens of less opportunities of employment.

In shadow sector, on the other hand, the attitude "work/capital" is excessively great. Теневики too intensively use work, legal business - the capital. It conducts to unproductive and inefficient specialization as productivity is optimum only when decisions aspire to the best parity of work and the capital.

### **Reduction of investments**

It is known, that the shadow economy double by conducts to reduction of cumulative investments. First, the shadow enterprises use the labour-consuming technologies considerably reducing need for investments as economy all comes further into a shadow. Secondly, in view of complexities with which collide теневики at realization of contracts, and the high percent demanded by financiers from shadow investors, long-term investments into manufacture are poor. Costs of the legal status also conduct to reduction of investments. Studying the difficulties accompanying legal and shadow sectors of a facilities at aspiration to optimum scale of manufacture, we have come to conclusion, that a level of investments into Peru below, than could be, if the legal system function effectively.

### **Inefficiency of tax system**

The basic weight of taxes lays down on rather small group of the people still working legally, and the state squanders enormous resources on detection of defaulters, and thus there are undesirable skews in economy as a whole.

Rather large enterprises compelled owing to the sizes to operate legally, pay more taxes than if the shadow sector did not exist - in fact the tax so is burdensome because of narrow tax base. It frightens off many companies from expansion of manufacture. In Peru industries in which крупномасштабность there is an indispensable condition of a survival and which therefore are doomed to legality are poorly developed. Evasion from taxes has got such scale, that the state is compelled to spend greater money for revealing of defaulters, which, in turn, spend means for avoiding detection.

Let's interrupt for an instant and we shall consider undesirable distortions in tax system and economy as a whole. The known economic law says, that any not the neutral tax is to a certain extent inefficient. The tax to the salary, for example, can force to work people less. The tax to the property reduces aspiration to get the property, compelling some businessmen to use less grounds and to build less. Taxes deform the economic choice, that is why one of the purposes of tax system should be minimization of these distortions at special attention to costs on taxation.

Unique way to reach they be to support low rates of taxes. For example, 90 %-th tax to profits or earnings force people who could enclose means in any productive activity, not do it. On the other hand, 10 %-th tax could reduce distortions noticeably.

In Peru where the government so is betraid to idea to satisfy need of people by means of direct intervention in a facilities and where legal sector from which it is possible to take taxes so it is small - tax rates grow. As a result legal activity becomes all less attractive, and the shadow sector - grows. And as the government persists in aspiration to receive more incomes, it increases taxes to legally operating enterprises and creates that a vicious circle: growth of shadow sector, reduction legal, preservation of a level of public charges, necessity to increase taxes to the legal activity, growing appeal of shadow sector, etc.

### **Rise in price of municipal services**

All aforesaid is true and concerning the price for municipal services. By existing estimations, almost half consumed in Lima waters and an electricity misses free of charge. Are possible, certainly, and outflow of that and another, but the most part of losses it is necessary to charge внелегалов, stealing water and an electricity. The majority внелегалов do not pay for these services, and as a result for legislative the payment grows.

On the other hand, the basic part of legal sector is made by the enterprises, which are simply too great or too known to disappear in a shadow. Burdened by enormous governmental requirements, these enterprises demand in exchange more and more than privileges. Their low efficiency and need in privileges is consequences described above a vicious circle. It can be observed even on an example of legal export firms which are assessed with rather high taxes. Unprofitableness of their position can be corrected only in case the government of Peru compensates that superfluous part of taxes which lay down on them because of massiveness of shadow sector in the form of grants or the soft loan. (a situation that fact still complicates, that these privileges break the international agreements under tariffs and the trade, forbidding subsidizing of export and justifying reciprocal actions of the countries-importers in the form of antidumping laws or countervailing duties.) The pure result is reduced to growth of taxes to not export branches of legal sector which, as a result, simply disappear.

Distortion continues to accrue. With growth of taxes the inefficiency of tax system is naked. The tax to employment interferes with hiring of workers, the value-added tax reduces investments into the enterprises of legal sector as a whole, etc., and T. Item By our calculations if this vicious circle and other conditions will remain constant to 2000 shadow manufacture will reach 61,3 % of a total internal product.

### **Constraint of technical progress**

For some reasons existence of shadow sector undermines technical progress. The main reasons - the small sizes of the shadow enterprises, a low level of cooperation of manufacture, impossibility of protection of technical innovations.

We saw, that fear to be found out, absence of the property rights, unreliability of contracts cause the small sizes of the shadow enterprises. Though economists miss in estimations of the sizes at which the enterprises are capable to carry out innovations, there are no doubts, that enterprises rather susceptible to technical innovations should be noticeably more largely, than it is possible in shadow sector. We know also, that the most typical result of innovations is the increase in a sales volume. But for the enterprise, compelled to be hidden, there is no sense to be done more - it will find.

As introduction of technical innovations is useful for a society as a whole, the losses generated by a relative rarity of innovations, lay down not only on the shadow enterprises, but on the country as a whole. In fact it could take benefits from technical progress.

### **Difficulties of a formulation of macroeconomic policy**

Macroeconomic decisions of the government, - for example, concerning the sizes of budgetary deficiency or rates of monetary issue, - substantially depend on an

estimation of efficiency of economy. Existence of shadow sector extremely complicates reception of the exact information on a condition of national economy and brings an element excessive спекулятивности in process of acceptance of political decisions.

If the share of shadow sector concerning all economy was a constant, the size of a possible mistake would appear not so significant. However shadow activity, at least in some areas, develops much more quickly, than legal, that underestimates parameters of growth. The institute has found out, that in 1985 of Peru was on the richman on 28,7 %, than the national statistics testified. This phenomenon of the same grade, as reassessment of a partial employment, unemployment and inflation as some workplaces are not registered, and do not take rather low prices of shadow transactions into consideration.

Though developers of macroeconomic policy are obviously informed on this phenomenon, scales and growth of shadow sector complicate exact enough estimation of a level of economic activities and resolutely strengthen uncertainty at a choice of macroeconomic policy.

### **The legal system predetermines development**

So, we see, that Peruvians are compelled to take up the highest costs if they are measured to operate legally and if they are not capable of it, they should overstep the bounds of system. Hence, they cannot enjoy advantages of reasonable laws of the country, that is the tools offered by the law for increase of efficiency of economic and social activity: the property right, contract and **внеконтрактным** the right.

### **Tools of development offered by the law**

Value of the property right was emphasized by many economists who believed, that explosion of technological innovations in the West and the enormous investments which have made it possible, have begun only in the end of XVIII century when the property rights have been advanced and have received autonomy from policy. Douglas Норт, for example, has presented numerous that certificate, that the main inventions in the Europe have appeared only when for protection of intellectual property rights the system of patents has been created.

Importance of patent system that except for absolutely casual opening the majority of inventions demand expensive researches and good formation, otherwise, charges on which it is possible to go if it is assured that they later will pay back. Prior to the beginning of industrial revolution these expenses were more, than received after benefit. And only when there was the wittiest tool of the law - an exclusive patent right, there was also a lawful basis for definition of intellectual property rights. The patent right not only has facilitated carrying out of the researches aimed at innovations, but also has created powerful stimulus for increase in investments into formation, researches and search of new decisions of technological problems.

Contrary to opinion widely widespread in Latin America, economic value of the property rights not that they benefit exclusively to owners, and that they stimulate proprietors to increase value of the resources by investment, innovations or their connections with resources of other proprietors - for prosperity and progress of a society as a whole.

This idea is illustrated with a well-known example of lake rich with a fish. While the lake neutral, it is appreciated only as a place of catching, but not a place of cultivation of a fish. It be no point to fishermen to limit улов while they will not make sure, that except for them anybody will not catch this fish and consequently, counting upon long-term prospect as the fish is made multiple copies, it is more favourable to limit today's улов. The Most probable future for ownerless lake - disappearance of fish stocks. On the other hand, if the lake belongs to someone, this someone will care of cultivation of a fish. Reasons of personal benefit will force the owner to limit улов and as much as possible to raise value of stocks of a fish. Potential commercial benefit is the main motive power of investments and attempts of forecasting of economic tendencies which influence relative value of resources. Naturally, the

society as a whole also is interested in that process of forecasting and investment was conducted reasonably and tomorrow there was no shortage of a fish.

This example, at other equal, we shall apply to any kinds of resources for which the property rights are not certain, for example, to the empty state ground in suburbs which (housing construction), and to economic needs (workshops, factories can be used both for social, warehouses). Captures of the ground, streets and roads were somewhat spontaneous methods of creation of legitimate rights of the property at absence of the good law. If *внезаконная* the system did not generate these rights at *внезаконных* would not be to develop stimulus resources, to give to them economic and social value.

Tracing history of contracts, Douglas Hopt and Robert Paul Thomas marked in the it is masterful to the written book, that industrial revolution in the Europe became possible owing to essential increase by the states of reliability of contracts and reduction of private costs on their execution (Douglas S. Sever and Robert Pol Thomas, Increase of the Western world, London: the Cambridge Press of University, 1973). The contract system has not been created by the state. Simply in the course of time authorities have realized, that a usual trading practice of a private sector, substantially *внезаконного*, is effective and well adjusted, and have supported this practice with force of the law so began possible to appeal against in court against any infringement of conditions of the contract. As we shall see in the end of this book, the given procedure is rather effective: instead of exhausting a reality in the desirable form, the state has legalized the practice which has confirmed reliability. This reliability partly grew out efforts of the notaries specialized on due registration and registration of contracts and intermediary in trading disputes, and guaranteed that, that agreements between manufacturers and dealers will be executed more reliably. The rules established by them and models of the mutual relations, allowed to adapt contracts for concrete conditions almost any transactions, facilitated negotiating.

Owing to all to it today when legal businessmen, and first of all in the developed countries of the West, do not have necessity to hide the activity from authorities, the confidence created by an opportunity to take of execution of the contract to court, raises readiness of people for risk. And contracts became an obligatory condition of long-term investments. Innovations - the most risky investment of means and if the government cannot give the citizens of the reliable property rights and effective means for their organization and transfer, namely contracts, - it, that, deprives their with one of the basic stimulus to modernization and perfection of the activity. It also occurs in shadow sector.

The markets of the capital in the developed countries could not function so effectively if the state was not ready to demand force of the law of respect for conditions of the credit. Courts gradually send that simple both translation bills and letters of credit are lawful documents. When legislators have agreed, that such tools

can leave to bearer, instead of on the concrete person, they have created conditions for acceleration of financial operations. Creditors had an opportunity to transfer actives to the third party, and owing to it the effective mechanism of payments and crediting has been given to economic agents. It has made possible to cover one transaction at once delivery of the goods or the loan, and later - payment of the goods or the credit. Therefore with growth of legal security of transactions volumes of trade, an opportunity of financing of manufacture and introduction of new technology and the technics grew, new people got access to productive activity.

In other words, modernization of the market economy, accompanied specialization of work and manufacture and the leader to complication of transaction, became a reality because the law has allowed to reduce costs of transaction. These costs join all that is necessary for their realization, namely: costs on carrying out of negotiations or execution of the contract, on granting and transfer of the property, on transfer of the capital, employment of a labour, distribution of risk or insurance, but first of all here enter - costs of access to legal system or costs of work in shadow sector. By our data, in Peru costs of realization of transactions (both in legal, and in shadow sector) are absurdly high, that conducts to enormous растраниванию resources, and finish with it only legal system if it will start to reduce costs effectively can.

It is obvious, that absence properly understood and applied внеконтрактных laws in a combination to backwardness of the property rights and ущербностью the contract right are, partly, the reason of that for the damage caused by shadow activity, those to whom would follow bear the responsibility not, and the third parties. Such abnormal position reducing social value of this kind of activity, can be corrected, if will be created внеконтрактная the responsibility - the third pillar of any good system of the right.

The main applicability of the property rights, contracts and внеконтрактной the responsibility consists in reduction of uncertainty for those who wishes to enclose the work or the capital in development of existing resources. It is difficult to imagine something more reducing investments, than uncertainty. Any inhabitant внезаконного settlement will not enclose significant means in the house if will not have the guaranteed property right to it; any street dealer will not wish to arrange well a site of street on which works if it is afraid of exile;

and any bus driver not begins to observe a public order on a route if its rights are not recognized. People whom we interrogated, stated constant fears, that the law can become a basis of violence over them, and their activity will be suddenly stopped.

It is necessary to note, that legislative people also bear costs внезаконности as it is impossible to rely completely on the property rights, arrangements and внеконтрактные guarantees if the state can use legal system any way. The essence of the uncertainty created by absence of auxiliary legal tools becomes more clear if to

correlate it with function of insurance. We shall assume, that the car by in 10 thousand dollars can be stolen within a year with probability 1/1000. Theoretical annual costs of stealing will make 10 dollars, or 1/1000 from 10 thousand dollars. If owner of the car does not disturb risk has no value, whether застрахован the car for 10 dollars a year, or exists 1 chance from 1000 to lose 10 thousand dollars. Actually, however, very few people is indifferent to such risk. The majority of people if they have means, will pay much more than 10 dollars if only to compensate possible losses. Prevalence of insurance shows, that people do not suffer uncertainty and are ready to pay the high price that it to avoid. As the law does not undertake anything to disseminate uncertainty, people are disappointed in hopes to achieve from it protection and start to search for other ways of reduction of risk.

In the legal world for reduction of risk distribute actions and the responsibility among partners, диверсифицируют a portfolio of participation, establish exact limits of the responsibility and buy insurance policies. It is possible to reduce also risk, buying connivance of authorities and services of the intermediaries providing administrative protection against unforeseen circumstances. Generally speaking, these methods of reduction of uncertainty are not accessible внезаконно, except for, perhaps, small диверсификации business and the certain opportunity of political negotiations won by some trade unions. Теневики try to reduce risk differently: giving a bribe, reducing up to a minimum of the investment, putting means, whenever possible, in a personal estate, диверсифицируя and децентрализуя manufactures, choosing as trading partners and serving relatives, friends or fellow countrymen. In particular, bribes which, according to interrogated by us неформалов absorb from 10 to 15 % up to their gross revenue, testify to the fear created by uncertainty.

Granting of the property rights and confidence, that court will protect their contracts just as increase of effectiveness of decisions about внеконтрактной the responsibility could lower uncertainty and create conditions for regular increase of value внезаконной economic activities. Greater definiteness would raise value as work, and capital for all society. In any country uncertainty or legal instability reduces volume of long-term investments and investments in factories and the equipment. People save up, and that little less, that it was possible to save up, put in such socially unproductive blessings, as jewels, gold or a luxury goods. Export of the capital from the countries, similar Перу, is only one more result of aspiration to avoid uncertainty.

Certainly, uncertainty completely to exclude it is impossible. But there are absolutely unnecessary kinds of uncertainty, for example from what suffer внезаконно, not having access to auxiliary legal tools. Respective alteration in requirements of the law which would make these tools popular, could lower size of uncertainty immediately.

### **Stimulus, specialization and interdependence**

We spoke about good and bad laws. The good law - guarantees and raises efficiency of economy and public work, to it adjustable, and the bad law - destroys or completely liquidates both that, and another. Using the concepts entered by us, it is possible to tell, that the Peruvian laws in the majority are bad, as their developers did not take into consideration costs of application and their suffocating influence on economic activities. The most weighty proof of unfitness of these laws that the significant majority of economically active population has chosen shadow sector, and minority makes use of the progressive experience and the capital outside the country. In other words, they have decided to operate beyond the framework of the bad laws entailing so high expenses and so complex rules.

That the law was good, insufficiently, that it was neutral and did not push people to shadow activity. It should do still at least two things: first, to stimulate use of the economic and social opportunities given by the country; secondly, to facilitate specialization and cooperation of people and resources.

Let's show all over again than so stimulus are important. As we already saw, the city economy allows to earn more, but for this purpose it is necessary to raise value of realized opportunities. And value of these opportunities is defined by legal system. For example, to have an opportunity legally to use the empty grounds, it is necessary to overcome writing labyrinthes. On economic value of the ground costs directly influence all these bureaucratic procedures. Value of the house is defined by a degree of confidence, that it is not threatened with danger of capture or vandalism, that it not обесценят more refined forms of aggression, for example, by means of the state restrictions on use and transfer of the property. In other words, the house can stand on the ground, however its value and обустроенность will be that below, than it will be more difficult to receive legitimate rights for the ground, necessary guarantees of safety of possession, acknowledgement of the right to possession, and also the rights to sale or rent.

Thus, the real value of economic opportunities differs from that which could be realized without any costs. It is settlement value, with an estimation of costs on bureaucratic red tape, on a degree of security against capture by the third party and on sale more likely. Than more cheaply to organize transaction and the гарантированное the right of reception of incomes of investments, the above real value of economic activities. The law successfully considering these elements, induces people to find and use existing opportunities, and regularly increases value of economic activities.

The good law should stimulate also specialization and cooperation of people and resources. In any society some people it is better than others are adapted for performance of the certain industrial problems. In the similar image the certain material resources are more productive at one use, and less - at other. Economic wisdom says, that if instead of attempts to satisfy the needs directly members of a society specialize on performance of those problems which more all go right to them,

and exchange among themselves results of work everyone reaches higher standard of well-being. Specialization of material resources also increases well-being as their social utility is done by the greatest when they are used with a view of, increasing their value for everything, and not just for those who owns them.

That there was possible a specialization of people and resources, the confidence of reception of incomes of investment of resources is necessary. It is possible only at confidence of everyone, that transactions are favourable, that received in exchange for work or the goods will bring more advantage, than it would be possible to receive, working alone. That is why economists approve, that the exchange of resources increases their value and, hence, well-being of all.

But such specialization of people and resources cannot affirm, if people are isolated and do not trust each other. Isolation and mistrust exclude specialization as, by definition, specialized workers require in each other for maintenance of the needs. It is necessary also that manufacturers trusted system of an exchange. It means, that the organization of system of an exchange should provide safety to everyone. And only the law and institutes protecting it can be sources of such trust.

Protecting the property rights, strengthening reliability of the contracts, allowing to organize and. To transfer these rights, and defining the responsibility for the situations which are not covered by the contract, the law does possible specialization. This three elements are necessary, if the society is interested in the best use of the initiative and work of citizens, and also the material resources. In a basis of the stated point of view representation lays, that good laws considerably facilitate specialization and an exchange, allowing to use human and material resources in the best possible way. The corresponding system of the property rights, contracts and внеконтрактной the responsibility generates free from the bureaucratic control effective methods of use of resources. In a context of such laws citizens will have enough stimulus to create - through variety of efforts and transaction - economic system which will be exclusively sympathetic to opportunities of development.

This basic statement as traditional academic thinkers still trust, that springs of development are cleanly economic achievements - technical progress, accumulation of savings, investments into the human capital, decrease in transport charges, economy on increase in scales of manufacture which actually have secondary value. Any of the mentioned reasons does not explain, why in some countries people are more inclined to introduction of innovations, more economical, work with greater productivity and are ready to go on greater economic risk. Unless we, inhabitants слаборазвитых the countries, genetically or cultural are not capable to save, introduce new, to risk or operate the industry? Or these "reasons" at all are not the reasons, and represent development as those? And can be the effective reason of economic development set of legal and administrative institutes which stimulate

technical progress, specialization, trade and investments is? The Certificates collected in the given book, convince us of the last.

Because of bad laws workers both legal, and shadow sectors remain only weak, interdependent experts, whose opportunities will remain limited until the state will not give them the stimulus necessary for progress, namely - good laws.

### **Whether only the law defines all?**

So, we have analysed legal aspects of problems *внезаконной* activity. Now it is necessary to be asked by a question: whether there are other aspects of the given problem?

Peruvians, and including *внезаконные*, possess special preferences, skills, features of behaviour which can be considered as the social, cultural or ethnic factors predetermining existence *внезаконной* of activity. They prefer the certain goods and services that it is possible to consider some kind of economic forces. All these elements in a combination to a legal situation influence and even define characteristics *внезаконной* economic activities. For example, for the person from village the adaptation to the certain requirements of the right can appear more complex and expensive, than for the one who has got used to a life in a city society. On the other hand, the person to whom social, ethnic or cultural features *внезаконной* activity are disgusting, will undertake greater efforts to enter into legal activity and to remain in it, than the one whom this style of a life involves or simply arranges.

The problem in defining, influence of these factors on behaviour is how much great, whether they are defining or secondary. We shall take as an example capture of the empty state grounds. What explanation we can find to this phenomenon if to look at it from the cultural or social point of view? Whether Is it the old tradition reflecting propensity of Peruvians to keep together and to grasp the another's property? Certainly, no.

From the legal point of view an explanation extremely simple. When it becomes clear, that 7 years and some thousand dollars are necessary to receive the ground for construction of habitation the majority of people - at any vocational training - formation and propensities will grasp the ground and to get it *внезаконно*. If the bureaucratic red tape was reduced, is possible and then there would be people who would prefer to grasp the ground, risking to test all possible adverse consequences of such act, but they would appear in minority.

Let's look at a problem on the other hand. If cultural distinctions between legal and shadow businessmen are really so great, how we shall explain the fact, what many *внезаконные* are ready on everything to legalize the activity? And how employment of set of people simultaneously in legal and shadow sectors will explain?

The Ingenuity, productivity and wit with which operate неформалы in Peru, their aspiration to a lawful recognition, existence внезаконной systems of norms, and also volume of their manufacture and consumption - all this allows to draw a conclusion, that from the economic and social points of view теневики have much in common with those who works in legal sector. Though nobody denies relative importance of social, cultural and ethnic factors, we have not found that any certificate, what exactly in them the reason of such great volume of shadow activity.

The legal system is represented the best explanation of existence внезаконности. From this point of view the choice between the legal and shadow status is not an inevitable product of any national features, and more likely result of a rational estimation of relative costs and benefits from an accessory to the given legal system.

### **The law and national development**

It is represented obvious, that backlog of such not industrialized countries as Peru, is better speaks features of legal system. Sometimes it seems, that experts are thoughtlessly assured of the developed countries: at each country there are same legal institutes, as in their own. But this error. Arguing on development of the country, it is necessary to consider a role of the right. We cannot shut eyes still to what not all decisions made by a society are defined by its cultural traditions or economic system.

Whether many investments people in the USA and the Western Europe if there there were no clearly certain and guaranteed property rights, did systems внеконтрактной a civil liability and the system of justice protecting their property? Whether many innovations have been made without patents and a payment for the right of use by them? Whether many long-term projects and stimulus for investment would be possible to create, if the court did not provide execution of contracts? Somebody would go on risk without system of limited liability and insurance policies? What capital could be saved up without legal guarantees? How many resources could be united without legally operating business organizations? How often people would appear bankrupts and began all all over again if had no opportunity to transform the debts in the action? How without institute of inheritance the business and private organizations could be kept by decades? Whether it was possible to lead industrialization, not having access to economy, образуемой expansion of scales of manufacture? We are sincerely convinced, that development is possible only in the event that effective legal institutes достигаемы for each citizen. This belief becomes stronger, when we recollect, that, despite of victims and efforts внезаконных, the shadow sector is characterized just by absence of such institutes.

However it is not necessary to underestimate importance of cultural traditions of the country nevertheless. The culture and ideology of the country first of all affects in how Peruvians realize the economic opportunities and what blessings and services

they choose. Really, the culture of Japan, at all impressing technical and economic changes in the country, continues to remain recognized. As we saw, traditional customs of Peruvians, their sight at reputation, family communications, a public property, and also their representation about hierarchy and the status are rather widely used *внезаконными* in economic activities. There are no bases for fears, that after corresponding reorganization of legal institutes of the country the cultural heritage becomes lifeless. This heritage will always define the nature of our development and a range of creative opportunities given by it. What of these opportunities are realized and however many Peruvians will manage to take advantage of their benefits, will depend first of all on legal institutes of the country.

Much easier and more cheaply to unite figures of legal and shadow sectors, having changed laws than to try to change people. To convince *внезаконных* in *разумности* laws in force or that their social status will raise if they will reconcile to the mercantilist system borrowed in Spain, it should to deform their culture sharply. It is much more reasonable to adapt laws for the validity, than to try to influence sights of everyone as the law is the most useful and obedient to will and reason of the person the tool of changes.

### **Chapter 6. Tradition of redistribution**

We saw, how the law influences efficiency economic and public work. Now we should be asked by a question: why over Peru are dominated with bad laws and how it influences the country? Why the law reduces a production efficiency? Why it limits manufacture or does not allow it to arise instead of promoting it and to reduce the price of it? Why it squeezes out a significant part of the population in shadow sector and dooms legal sector to the highest expenses and to the point of irrationality confused requirements? Why it does not inspire trust to system of trade? Why it is not capable to induce to use citizens economic opportunities which would facilitate specialization and, cooperation of people and resources? In other words, why the Peruvian laws *плодят* poor men?

Apparently, authorities of the country by tradition are inclined to use the law to redistribute riches, instead of to help to create them. From this point of view the law is the mechanism of sharing of constant volume of well-being between various groups. The state which is not representing, that riches and resources can be multiplied, that it should be promoted by corresponding system of institutes, and that the most simple people are capable to create riches, considers direct redistribution by the unique comprehensible approach.

Our legislators do not see, that any *перераспределительный* the mechanism influences functioning of productive system as a whole. At such approach it is not considered, how the law can work on economic opportunities and decisions of the separate person.

Our researches in the field of the legislation have shown, that authorities seldom reflect on positive or negative consequences of the decisions. Their attention is concentrated basically to reconciliation of special interests, on encouragement of what are considered correct, and redistribution of resources in their advantage by means of laws. Every time when the government gives the privilege or releases from taxes, reduces of the price, gives to the certain groups of workers constant protection against dismissal or the exclusive license for the certain kind of business, it that generates the costs which are taking away from others stimulus and opportunities. For example, if the state supervises the prices for bread and decides to fix them at a level at which the profit from хлебопечения becomes less, than in other kinds of activity immediate result becomes redistribution of money from manufacturers to consumers, and more remote - falling of interest to manufacture of bread and switching on more profitable kinds of activity.

Перераспределительная the tradition has created a society in Peru, almost all which vital forces are organized in the political and economic groups, aspiring to achieve from the government of redistribution in favour of the members. Such competition for legal privileges has led to wide politization of Peruvians and is the direct reason of existence of the bad laws generating costs both in legal, and in shadow sector of a facilities.

This tendency has so amplified, that for the sake of reception of not earned income (that is any state payments, having a source not the contribution to manufacture, and a certain privilege) the special organizations called by us " перераспределительные syndicates ", have started to create not only those who is traditionally connected with political activity - parties, mass media or внезаконные the organizations, but even business corporations and families. Changes in structure of and a management of boards of directors are often connected with changes in the government. Families are not too rare, where the father and the son, brothers and sisters, even the husband and the wife form communications with various political parties or armed forces to make the way upwards. Other symptom of need for formation перераспределительных syndicates is abundance of political newspapers and magazines in Lima. Many publications are aimed only at protection of interests of the shareholders.

Syndicates conduct continuous struggle for that no new laws have infringed on their interests and if probably, directly to them would promote. As a result laws are aimed almost exclusively at distribution of not earned income, and it has already made of us democracy of groups of pressure. The natural passion of businessmen to a competition is directed on an establishment of close communications with a top of political and bureaucratic circles, instead of on rivalry for the best satisfaction of inquiries of consumers. Owners of already generated enterprises struggle for preservation of exclusive position which they have achieved during long-term

struggle while new owners, also interested persons receive a slice of a pie, fight, using political communications, for reception of separate advantages. The legal system, whose unique problem is redistribution, is bad both for poor, and for rich, and favourable only that who was in the best way organized for maintenance of close communications about authority имущими. And it means, that in the market there are only those kinds of business which are most effective politically, but not economically.

Politization of the Peruvian society means, that all problems are solved by the rules established by the government, instead of according to requirements of economic efficiency, morals, validity. All is transferred in hands of the state, and the society becomes inevitable бюрократизированным and centralized. Politization, centralization and бюрократизация have one source: перераспределительное the legislation.

The legal system varies after changes of relative position of those who influences changes in the government. That is why we often hear, that the Peruvian system of the right has not enough uniformity and stability, that laws can serve as a subject of the transaction that there is a legal anarchy and it is unimportant, that you do also that want, and it is important, what politician or the bureaucrat know. Also there is nothing surprising that the bribery and corruption are characteristic results of legal system in which the competition for not earned incomes became the main form of lawmaking. Both the traditional history, and history внезаконной activity in Peru are filled by such examples.

Nevertheless, on each elections voters believe, that if elections are spent fairly to authority the candidate, not giving in to pressure will come, and technocrats who should put into practice the laws offered by the winner, will represent group spotless, незаинтересованных, ready to achieve - a certain mysterious image - the best and fair results. All this illusion. There are no settled methods or the theory allowing politicians to solve that is more necessary - than the house for citizens with an average prosperity or high-speed highways between capital and provinces, whether to give more attention to construction of power station or clearing constructions, whether to give more grants to those who works and puts means in area Puno or that who makes for export. All these decisions are actually predetermined by judgements about political values.

And, as we shall see, any of such political judgements will not be approved on the basis of pluralism or the open debate. In Peru of decisions of 99 % of the central government, being means of redistribution of riches, are accepted by enforcement authorities without public discussion or the control. That fact, that the executive authority can legalize redistribution without debate in parliament or still somewhere, allows перераспределительным to syndicates to interfere with process of the

legislation. In it and an explanation of why in the countries, similar Peru, the property rights are not protected from authorities *предержащих*.

*Перераспределительные* laws extremely politicized all layers the population trying *организоваться* to live for the another's account. Consumers struggle for that the prices were below market, and addressees of the salary - that it was above a market level; the settled enterprises try to prevent or slow down introduction of any innovations which could threaten their position; hired workers put pressure for preservation of the workplaces and against a competition from more skilful workers. Us the system has made all experts in questions of reception of protection or advantages from the state.

The laws aimed at redistribution in favour of consumers, lead more likely to return results. Attempts to reduce finally conduct the prices for the basic blessings to their growth. Our researches have shown, that between December, 1980 and June, 1985 the rise in prices on controllable kinds of food stuffs on 31,4 % has overtaken a rise in prices on uncontrollable products. That is why any form of the state control of the prices inevitably conducts to politicization and *бюрократизации* and when the prices isolate from action of market forces, they get under the control *перераспределительных* syndicates. All this causes huge *растраширивание* resources. Not only that *перераспределительные* syndicates and the state are compelled to contain all system of planning, the organization and management of redistribution, but also the society as a whole should suffer from consequences of backroom deals, growth *бюрократизации* and nonflexible *институциональной* systems.

*Перераспределительные* syndicates direct the most part of efforts to a management of intermediaries, carrying out of meetings and receptions, use jurisprudence for reception of privileges instead of raising efficiency of the activity. The best minds of the country and the best energy of our businessmen are spent for conducting *перераспределительных* wars, instead of on achievement of real progress. Even the provincial enterprise elite is compelled to support close communications with those who knows redistribution in capital. A significant part of legally registered firms of the country hold the headquarters and managers in capital, instead of on places simply because managers can achieve greater, cajoling politicians and bureaucrats, than working above increase of productivity. *Перераспределительная* the legal system has led to concentration of all economic life in Lima.

In comparison with businessmen of other developing countries, the Peruvian businessmen should spend more efforts to reception political, instead of the technical information; it is necessary for them to support acquaintances in political and bureaucratic circles constantly to be well informed about affairs and to make correct decisions. Those who holds a nose downwind win only. And the competition for

reception of the technical information brings benefit not only that who receives it, - it allows any to improve quality and to lower production costs. System перераспределительных syndicates which replace each other at authority or correct together, but thus badly own resources of the country as neglect manufacture and are shipped in struggle for not earned income given by the state, - is better it is described by the concept of an oligarchical society.

The Peruvian society suffers from consequences of the legal system based on перераспределительных transactions. This the system has resulted from activity of syndicates, which gradually институционализировали the right of separate groups. As a result under protection of the state there were not those or other people, and succeeding syndicates. As we shall see in the following chapter, such position was characteristic for early stages of mercantilism where the rights separate people owned not, and groups - guilds, aristocratic families or large trading associations. Distinction between Peru and the countries with modern market economy is those.

Selected politicians more do not accept decisions on various problems. The more extensively and всеохватней the system of regulation and the control is done, the below on a scale of ranks the responsibility for decision-making and a real opportunity how to influence mechanisms of redistribution while the authority does not become exclusive property of the finest bureaucrats moves. As they belong to number most низкооплачиваемых employees, their bribability is practically guaranteed.

As the legal system can be used both for protection, and for capture by everything and as everything, that can be distributed, can be as well a subject of transactions and negotiations, the legislation passes to a detailed regulation of all forms and kinds of activity in the country.

Институциональная the system differs especial rigidity and an invariance. The laws accepted as a result перераспределительных of agreements between the state and syndicates, create legal system which inviolability is protected by syndicates and bureaucracy supporting them.

On the contrary, the laws which have been not directed on redistribution, the state can easily improve or replace, if the purposes for which they were created, are reached. In перераспределительном the state, orders and which policy are supervised by syndicates, it is the extremely difficult to change the reached arrangements even if contracts do not give any positive results: they became a basis of the got rights. Under pressure of syndicates in legal system the laws limiting access to lawfully carried out activity, increasing costs of submission to laws gradually collect, and simplification of rules and reduction of bureaucracy appears almost impossible.

And, at last, constant pressure in favour of distribution and redistributions of resources of a society through the mechanism of the legislation has made legal system

of Peru extremely obstructionist and complex, has transformed it into the main stimulus of expansion of shadow sector.

Манкур Олсон (Mancur Olson, Increase and Decrease in the Nations: Economic growth, Stagflation and Social Rigidity (New Haven: Йельская the University Press, 1982) considers, that the complex and expensive legal system quite suits перераспределительные syndicates, as камуфлирует advantages received by them with such artful design of rules of law in which not in forces to understand neither press, nor political opposition. When it is possible to reveal presence of the privilege and the law, its cancelling passes, the labyrinth corrected is done by even more complex. The human ingenuity is boundless, and people always find a way to bypass the new law by means of uncountable set of already existing rules. Bureaucrats, politicians and competitors from its part will find a way once again to cancel the law, creating thus an infinite cycle of competing laws.

The sample of the law most convenient for перераспределительных of syndicates, Олсон considers the progressive surtax including mechanisms of granting of tax privileges and discounts, of which those can take advantage only who has means to understand labyrinthes of the tax laws.

Something similar occurs to the custom duties. High tariffs rise in the price of products for consumers and force those who has not received protection, to pay for those who has received it. This position can induce the first also to achieve customs protection, to compensate costs on protection of the last. In long-term prospect it is possible to expect the any and inefficient tariffs, the open politization of economic stimulus and such complication of rules of foreign trade, that in it practically cannot participate, for example, теневики, having technical opportunities, but not having political and administrative influence.

In the countries where the legal system is focused first of all on redistribution, the international economic activities are a fertile soil for перераспределительных syndicates as foreign trade of such countries is adjusted by laws and rules, understand in which experts on political intrigues and writing казуистики can only. We mean such rather uneasy tools, as differential regulation or rates of exchange, various kinds of indirect taxes and margins on import, direct taxes to the imported goods, licenses, quotas, lists of the resolved and not resolved goods, an advance payment for import, obvious and implicit grants, tax indemnifications, bilateral and compensatory agreements, and also direct regulation of investments. Especially it is necessary to mention the control of currency transactions because of which everyone buy hard currency in the black market. In these conditions importers aspire to overestimate the price of the goods and to forward more currencies abroad. The government answers it with toughening of the control, aspiring to close a hole through which resources flow away. Finally new rules conduct to the further multiplication of procedures, to growth of bureaucracy, corruption and shadow activity.

The same occurs, when, trying to redistribute resources in favour of exclusive borrowers, the bank establishes the interest rate below a rate of inflation (negative percent) that conducts to increase of demand for credits and to an exhaustion of credit resources. In these conditions instead of allowing the capital to flow automatically in the most profitable enterprises - which one only are capable to pay the real interest rate and to give the best guarantees of success, - the state enters other criteria of distribution of the credit. It is inclined to patronize winners *перераспределительных*, wars, they eventually and manage benefit to dispose modest, but cheaply getting savings. When *перераспределительные* criteria define the price of money, process of crediting becomes politized, discrimination and bureaucratic.

It is a lie, that Peru all are equal before the law as there are no two people, paying the identical tax, there is no two import goods assessed by the identical duty, there is no two export goods subsidized in the identical image, and there is no two person, having the same opportunity to receive the credit. In Peru politization of redistribution was promoted by that laws were accepted by enforcement authorities. Since 1947 the state annually published nearby 27 thousand laws and decrees. Enforcement authorities began the basic channel of struggle for right to receive not earned income. It is necessary to select or appoint administration as effective ways to watch its legislative activity or distribution of privileges at once vanish. In tab. 1 is data about number of laws and the decrees accepted with 1947 on 1985 by legislative and executive authority. Agencies have accepted without any consultations over 98 % of all laws of the state. The parliament which by virtue of pluralism and an openness for press and public control has no equal opportunities for an arbitrariness, publishes hardly more than one of each hundred laws operating in Peru. As a result the majority of decisions is accepted without democratic consultations, and, that the most unpleasant, their significant majority is represented with decrees which almost are never published.

**Table 1.**

Years	Laws and the decrees accepted by the central government		
	Regulatory authority	Enforcement authority	%
1947	132	8 759	(98.52)
1948	58	19 583	(99.70)
1949	309	37 639	(99.19)
1950	308	21 531	(98.59)
1951	113	35 471	(99.68)
1952	241	42 515	(99.44)
1953	147	32 323	(99.55)
1954	118	29 353	(99.60)

1955	343	40 753	(99.17)
1956	164	30 864	(99.47)
1957	184	31 190	(99.41)
1958	185	22 792	(99.19)
1959	230	30 314	(99.25)
1960	188	36 932	(99.49)
1961	341	46 810	(99.28)
1962	541	38 242	(98.61)
1963	415	27 072	(98.49)
1964	579	38 375	(98.51)
1965	507	23 598	(97.90)
1966	504	26 030	(98.10)
1967	407	17 515	(97.63)
1968	590	19 286	(97.03)
1969	728	20 950	(96.64)
1970	625	25 976	(97.65)
1971	540	27 679	(98.09)
1972	621	34 127	(98.21)
1973	609	35 623	(98.32)
1974	566	39 623	(98.59)
1975	315	32 552	(99.04)
1976	391	28 978	(98.67)
1977	294	20 704	(98.60)
1978	351	20 096	(98.29)
1979	435	14 170	(97.02)
1980	397	15 789	(97.55)
1981	381	13 700	(97,29)
1982	191	13 186	(98.57)
1983	210	13 653	(98.49)
1984	302	15 230	(98.06)
1985	420	17 078	(97.60)
	358	26 822	(98.68)

Source: appoint Либертад у Демосрада

Collecting the information on how laws in Peru are nowadays created, we have found out, that there are no the established procedures regulating a course of their preparation and acceptance. According to one of respondents, " procedures depend on each minister ". In other words, they the in each ministry, and at change of the heads are entered new procedures. The lawyer, interrogated by us during research, has

declared, that " now any law is not accepted in the general interests ". It and others spoke about extremely big influence of private interests on the maintenance of laws. Our system of the legislation is extremely susceptible to influence of economic or political forces and copes two complementary groups: on the one hand - the high-ranking officials of the ministry having the exclusive right of the legislative initiative, preparation and approval of legislative offers; On the other hand - minister, deputy ministers and the advisers often involving extraneous advisers - basically the lawyers close to business circles.

The representatives of executive authority interrogated by us admitted, that, preparing for the law touching interests перераспределительных of syndicates, they is regular with them consult. To them it is necessary to address simply because the state tests shortage enough qualified personnel. One official has resulted such example: " If minister of the industry plans to prepare the law on motor industry, it will not find any expert on the given question in the ministry. As a result, it wants that or not, it should accept the offers of the companies reflecting them own interests. "

The lawyer worked on the Revolutionary government of armed forces (1968 - 1980), and now engaged private practice, has informed, that the present state bureaucracy rather низкоквалифицированна, stays in a condition of economic and moral crisis and is rather susceptible to bribes. As he said, the size of the bribe necessary for acceptance of the law in favour of separate persons, is not discussed at the bottom levels of administration, and considered by a management of the ministry. The bribe brings to the given person desirable favour and helps to support dialogue.

The lawyer from the Ministry of Economics of the democratic government was at authority with 1980 on 1985, has declared, that lawmaking has reached such scope, " that already there is no time to think ". It indeed: to the surprise, researchers of Institute have found out, that resolutions and the decrees submitted for the signature to minister or the president, are not accompanied by the appendix with an explanation of the technical party of business or a statement of other opinions, and contain only the text of the law. And, apparently from tab. 1, after 1948 annually affirmed not less than 13 thousand laws.

Our legal system does not aspire to protection and differentiation of the rights and the duties protecting the property of everyone and encouraging its activity. It is captured by persuasive aspiration to a direct control of a stream of everyday events and does not care of creation of the institutes generating riches. That we have, is result of constant rivalry for not earned income and reflection of personal opinions and preferences of governors. Here and a source of the bad laws adjusting legal and shadow activity. It is difficult to imagine, that such system has made the legal institutes accessible to poor men.

All this causes disappointment, uncertainty, corruption and strengthens social intensity. In перераспределительном the state the disappointment settles in showers of people already in a youth when the Peruvian starts to understand, that to riches work, how many political dexterity and resourcefulness conducts not so much. Maturing, it finds out, that those who puts work and the capital in the effective enterprises grow rich not, and those who manages to receive any political influence. Most умудренные a life fellow citizens - familiar with promises both left, and the right governments, - are disappointed, because know by own experience: to be put forward it is possible only leaning on favour of the state.

Uncertainty is the constant partner in life in перераспределительном the state. Peruvians know, that the enforcement authorities baking about 110 decrees and decrees every working day, can without any preliminary consultations or debate at any moment to change rules. Our laws are astable and unpredictable, for depend on the one who has won перераспределительную war. Outflow of resources in shadow sector, outflow of the Peruvian capitals and minds abroad testify to denying of system by them. They wish to work, accumulate and put in the countries with more predicted legal (i.e. with less any) redistribution. Whether accepts this redistribution the form opened экспроприации, as by transfer of the private grounds under housing construction, or hidden экспроприации as at freezing bank deposits or the announcement of discrimination rates of exchange, in any case people cannot have sufficient representation about what their means and the obligation cost. They are not capable to use to the full results of the work and not capable to expect, during what moment перераспределительные laws will throw out them from the market.

Enviably property перераспределительного the states to be generous for the another's account is the invitation to corruption. In struggle for riches and favourable redistribution do not stop before a choice of means. In process of a deepening of corruption, anarchy accrues. In the country where the law can be bought where the left and right political parties converge that a prerogative of the state is detailed regulation and узаконивание all and everything where false ethics перераспределительной validity supersede ethics of productive validity, there are no guaranteed property rights and there are no lawful stimulus to creation of riches. Distinctive attributes turning out as a result of system become instability and anarchy.

## **Chapter 7. A parallel with mercantilism**

### **Characteristics of mercantilism**

#### **Access to business**

#### **Excessive legal regulation**

#### **Peru - the mercantilist country?**

## **Decline of mercantilism and occurrence внезаконных Wreck**

**Having found out, up to what degree our society is under influence of traditions of redistribution, we have understood, how are far from market economy. Therefore it is necessary to wonder:**

**what at us for system? Whether it is defined by the factors specific to Peru or Latin America? Perhaps, it expresses a special cultural generality? Whether it is unique?**

**Actually перераспределительная the tradition exists not only in Peru and Latin America, it not is an exclusive attribute of our culture and historically is not unique. It is characteristic for system of the social organization which today is peculiar to Peru, to Latin America and a significant part of the countries of the third world, and in the past existed and in the developed countries - for mercantilism.**

### **Characteristics of mercantilism**

As well-known, the mercantilism is a designation of the economic policy dominated over the Europe with XV XIX century According to definition of " the Dictionary of social studies " UNESCO, " the mercantilism is... Belief that economic prosperity of the state can be guaranteed by only governmental regulation of nationalist type ". In opinion of those who emphasizes a role of a private sector in mercantilism, is " system of distribution of monopolies through the mechanism of the state... " [Robert Ekelund, younger and Robert Tollison, Mercantilism as the Society of Search of the Rent (Station of College, Tex.: Texas A&M University Press, 1981), chapter 1]. The European societies of that time have been politized, бюрократизированы, are poor, over them predominated перераспределительные syndicates. The parallel between the Peruvian society of XX century and the European mercantilism of former centuries is evident enough.

Being system in which management of the extremely regulated state depend on elite groups which, in turn, were fed due to the state privileges, the mercantilism was sharply rejected both the founder of communism Charles Marx, and Adamom Smith - by the founder of economic liberalism. From the point of view of Smith, the mercantilism was system, in which dealers and industrialists demanded from the state (and received) fastenings of the certain regulations and sources of the income.

The mercantilism was the politized system of a facilities in which the behaviour of businessmen was a subject to a detailed regulation. The state did not allow consumers to solve, that should be made; it reserved the right to itself to allocate and develop those kinds of economic activities as which considered desirable, and to forbid or suppress seeming to it improper. Under Charles Wilson's statement, " the

mercantilist system included all mechanisms - legislative, administrative, adjusting, - by means of which mainly agrarian societies expected to transform themselves in trading and industrial " [Charles Vajlson, *Mercantilism* (London: Routledge and Keran the Floor, 1963), p. 26]. For this purpose the mercantilist state by means of rules, grants, taxes and licenses gave privileges to the selected manufacturers and consumers.

The mercantilist governments considered justified intervention in area of private interests as in those days it seemed inconceivable, that the nation can prosper owing to spontaneous efforts of its citizens. The modern Europe has born from the Middle Ages belief that all people are born in a sin and that on authority имущих the duty lays to direct destiny and business of the citizens to rescue them from itself. From this point of view prosperity and the order could be imagined only in the form of submission of activity of separate people and their associations to the maximum interests of the state. The commercial commercial and industrial activity inevitably should lead to poverty, famine, illnesses and death.

Duty of medieval governors was direct to interfere in " economic activities of the citizens, to allocate with their resources and to redistribute these resources by means of rigid regulation which defined, among other, units of measure used in trade and weights, the "fair" prices for manufacturers and consumers, the minimal and maximal wages (for protection of workers and employers). The care of the future needs was absolutely excluded, for was considered as "gamble".

Ayr of mercantilism has begun with expansion of the European industry and international trade and with simultaneous reduction of some costs of feudal eagerness to fight. Economic scarcity of the Middle Ages began to leave in the past, and private business activity - to gain in strength. As Europeans knew only medieval system of board they have applied the out-of-date political methods to new forms of private economic activities quickly typing weight. Commercial and industrial revolution in the Western Europe occured, thus, on a background of wide state intervention in economy and a detailed regulation of manufacture.

In the beginning of a mercantilist era the increasing volume of private manufacture, greater taxes and large-scale regulation gave the state the significant income. Though the mercantilist government trusted, that the new wave of prosperity will make the nation great, a determinative was authority of the state. As the riches were created not by governors, and businessmen, the government authorized whose activity, to them and the most part of the government has passed. The significant share of the mercantilist literature of that epoch contains arguments in favour of the created or private interests, and the politician, spent the governments of the European countries during that time, has been named "mercantilist" to emphasize importance of merchants, "dealers". The European mercantilism was characterized by close communications between the ubiquitous state and an exclusive and extremely

enterprising clique of businessmen. Let's investigate some attributes of this phenomenon having so obvious parallels with modern Peru.

### **Access to business**

As well as in modern Peru, in the mercantilist Europe the opportunity to have the enterprise recognized by the law was destiny of few elites. The businessman in all cases needed to receive the sanction from king or the governments. In England it was known as "letter" on the privilege.

" what the financial form it accepted, it was only a set of the rights and the privileges reflected an essence of the transaction between the state and merchants. The last have got official support of the government at the beginning of negotiations with founders of a new era in trade; territorial monopoly; the right to resolve or forbid the admission to the market and, thus, a guarantee of incomes; the right of restraint of retail dealers...; the right to create the corporate organizations for lobbying in interests of the groups. The state in turn got something rather for it desirable during wars and inflation: a source of money, and in particular a hard coin. " [Coleman districts of Columbia, Economy of England, 1450 - 1750 (Press of the Oxford university, 1977), стр 58 - 59]

As a result access to business appeared possible only for separate persons or the groups had political communications and capable to pay to king or to its government for the privilege to be engaged in the legalized business. The enterprises were similar to the milk cows supplied the government by means for achievement of their imperious purposes. Quite often happened so, that the state not only raised the taxes stipulated by the letter, but also the place of the shareholder and the right to loans and gifts demanded for itself in the enterprises, called the mixed companies. Operating thus, the state carried out the indirect taxation of consumers.

Sometimes the state for satisfaction of the needs or needs of the groups which are being at authority, created own enterprises. As an example, based in XVIII century " royal manufactories " can serve in Spain on the sample of what created in France Кольбер. These royal factories, progenitrixes of modern state corporations, were subdivided on two groups: one made the weapon and ammunition (for example, artillery factories), others - a luxury goods (Gobelin tapestries, glasswares, porcelain). The majority of such enterprises were inefficient, were conducted at a loss and have disappeared in the end XVIII - the beginning of XIX century

In due course there were other lawful ways of creation of the enterprises and grantings of privileges to owners. In XVII century, for example, the English state allowed some citizens the privilege to create " legal persons " who could raise business in court, keep existence even after death of the members and separate private interests from interests of the enterprise, - so the last have received the best opportunities for purchase of resources, than any separate person. Creation of private

association was so great privilege, that in England the citizens basing associations without obviously expressed sanction of king or its government, were punished. When Englishmen began to be united for purchase of resources and management by them, at all not counting on the privilege, the English state has regarded it as an encroachment on its rights and the established order. In 1720 it has passed the so-called "exaggerated" law: Though its declared purpose was "ordering of the private initiative", actually it has been directed on rendering assistance to the large enterprises in competitive struggle for the capital with the small companies.

In Spain regional self-government institutions and police aspired to prevention of "a dishonest competition". Owners of privileges sometimes took the law in own hands to punish any who tried to break their monopoly. In 1684 inhabitants Пастрана have opened tape factory, having taken for the sample foreign factories such. All went well while in 1690 in the nearby city of Fuente de la Энчина have not decided to follow to their example. Inhabitants Пастраны which has received the exclusive privilege on manufacture in radius about 100 km, have been revolted. After long disputes they have taken up arms, attacked the city of Fuente de la Энчина, have grasped machine tools and the equipment of factory, and workers force have stolen in the city as военнопленных [Fradisco Gabrillo, Notaspara ale ILD (Madrid: Меса, 1985)].

The majority of historians converge that to the state position when manufacture served interests of influential merchant groups was favourable: communications of the state with a number of rich, influential, widely known merchants allowed to fill up treasury without special efforts and to pursue a policy, which at present was considered necessary. Thus, though reasons for state regulation, subsidizings and interventions in favour of separate trading and industrial circles were based rather convincingly (for example, the given kind of activity admitted necessary for national defense or, say, protectionist measures admitted necessary for industrial growth) but simultaneously these measures answered need of the state for the certain, easily controllable sources of taxes. Branches with greater number of fine manufacturers of industrial or agricultural production were difficult for supervising and even more difficultly to tax. The state had no knowledge accessible to market economy and mechanisms to cope with set of businessmen. The mercantilism provided the consent between the purposes of exclusive classes and fiscal needs of the governments.

### **Excessive legal regulation**

As well as in modern Peru, in the mercantilist state legal regulation was superfluous. According to Greg King, the English demographer and the statistics of XVII century, necessity to reckon with laws so has increased, that in 1688 approximately 3 % of inhabitants of England were lawyers [Grigory King, Natural and Political Supervision (E. Editor Barnetta, 1936)]. As the regulation directed on

development of certain kinds of activity, became more and more detailed, included more and more than the technical restrictions protected separate manufactures, the quantity of every possible norms and rules randomly increased in the mercantilist states. The governments always used exact and detailed rules for the purposes of redistribution and management, but this tendency has absolutely left from under the control over mercantilism and the phenomena accompanied it: Growth of cities, expansion of international trade, opening of the new countries and complication of methods of manufacture. For monopolies are sewn up and stabilization of a labour market England entered restrictions of new methods of manufacture. In 1623, for example, Secret advice of the English Crown has ordered to disassemble all machines for manufacturing sewing needles, and already made needles to destroy.

Also the laws, called to guarantee consumption of the goods made by monopolies have been passed. In 1571 there was a rule obliged all citizens to carry on Sundays English woolen caps. In 1662 of a rule have demanded, that dead men buried in English woolen fabrics. This requirement has been in more details confirmed in 1666, 1678 and 1680 [Ales Хекшер, Mercantilism (London: E. F. Editor Sodarlund, Georges Alin and Непобеда, 1934), the edition 1, p. 265].

In France rules were кодифицированы Кольбером - Minister of Finance at king the Lui XIV during 1666 - 1730 Then all the rules, concerning manufactures, three have been shown in four volumes in total amount in 2200 pages, plus additional where kinds of manufacture were described practically all. For example, there was 51 clause, concerning manufactures of fabrics while three basic has undressed the rules, fabrics concerning painting, contained 317, 62 and 98 clauses, accordingly. In 1737 208 clauses regulated manufacture of the Lyons silk.

Feature of mercantilist rules was that they became result of consultations of exclusive economic groups or dealers. It is difficult to assume, that king of France could know, how many strings and needles should be used for manufacture of fabrics in Lyons, Paris or Семуре, - the information to it was given by manufacturers. The purpose of regulation was to prevent to penetration of competitors on the market. The case of excessive regulation with bright negative consequences took place in XVII and XVIII centuries the Englishmen who have begun already liberalization of rules, have adjusted manufacture of cheaper printed calicoes. In 1686 - 1759, trying to protect the textile industry, the Frenchmen have passed the numerous laws forbidding use and manufacture of such fabrics. By the end of this period corresponding rules represented two legislative certificates, almost 90 decrees and even greater number of administrative norms.

As historian Joseph Rejd approves, other reason зарегламентированности was aspiration of the mercantilist state to prevent to an output of agricultural population in cities to guarantee manufacture of enough of the foodstuffs. And other historians

consider spot-check, that the major reason of the control of the prices and deduction of agricultural population outside of cities was care of strengthening authority of the government for what it was necessary to care of some content of peasants and to prevent their congestion in cities [Joseph Reid, the textbook for beginners *Ресняестра са scarlet cuestasicratio ILD* (Lima: Meca, 1985)].

The additional reason of superabundance of all rules was desire to redistribute national riches. With this purpose kings established ceilings of the prices in days of shortage of that or other goods and minima of the prices in days of a prosperity to support availability of the scarce goods and advantage of what sufficed. For example, ceiling prices of bread if the crop of wheat was bad were traditionally established and the price tended to growth. Though it seemed reasonable to keep the price for the basic products low, it was clear even in those days, that price ceilings will not help with long-term prospect to the made destitute layers of the population, and will actually promote increase of the real prices for bread as manufacturers will reduce manufacture and bread becomes accessible only for very high price in the black market, or after long turns at grain лавок (but under the official price).

### **Bureaucracy public and private**

The same as and in modern Peru, the mercantilist bureaucracy increased costs of business operations instead of reducing them. The government of the Lui XIV (1661-) has entered 1715 institute " industrial inspectors ", whose unique function consist in the control over observance of industrial rules. In XVI century the European cities, especially the centers of public self-management quickly expanded. Spot-check and other historians connect it with that fact what exactly there discussed and gave privileges and there there lived bureaucracy.

The bureaucracy grew, because sense of existence of the mercantilist state was redistribution of riches according to its fiscal and political interests so it was necessary to encourage, suppress or forbid various kinds of activity. To solve, to whom to prosper and to whom is not present - a challenge even for kings. It demanded the skilful analysis and attraction to work of lawyers and bookkeepers which should prove, that their offers most approach the state and correspond to its purposes. If at times it is difficult to banker to solve, whom to lend money present, what problem faced to the mercantilist government, obliged to solve what to develop, and what to forbid on all country.

Initial distribution of resources and establishment of corresponding rules, taxes and grants was only a starting point for work of mercantilist bureaucracy as those who has not won from redistribution, have started to find ways to draw attention of the government and to themselves. There was a need in the special private device for обхаживания the governments, that also promoted multiplication of the rules corrected former decisions. So, it was required even more bureaucrats to supervise execution of rules.

Thus, the administrative device of the mercantilist state has gradually distracted from own purposes and has begun to serve communications and transactions between guilds, перераспределительными syndicates and the state.

### **Перераспределительные syndicates and guilds**

As well as in Peru, the largest private businessmen in the mercantilist Europe were organized in перераспределительные syndicates which have gradually created pseudo-bureaucracy of private intermediaries. It consisted mainly of lawyers and the bookkeepers, involved that we name " public attitudes ". The basic work of these people consist in submission of petitions to the government. One type перераспределительных syndicates has been presented by guilds - associations of manufacturers which today we would name "cartels". Their activity was reduced not to technical development of the industry, and to " to use exclusive, and Increase and Decrease in the Nations is frequent also political authority in own interests " [Mancur Olson: Economic growth, Stagflation and Social Rigidity (New Haven: Йельская University Press, 1982) p. 125]. They aspired to supervise access to the branches of

manufacture, limited whenever possible a competition, supported stable prices, adjusted the market, standardized conditions of hiring and, at an opportunity, influenced through intermediaries on пб-литику the governments.

### **Peru - the mercantilist country?**

As we have shown, there is a significant similarity between mercantilist system in the Europe and system перераспределительных laws in Peru. For both systems are to a greater or lesser extent characteristic the authoritative approach to lawmaking; direct intervention of the state in economy; obstructionist, petty and дирижистское regulation of economic activities; limitation or absence of access to business for those who has no close communications with the government; boundless бюрократизация; association of the population in перераспределительные syndicates and powerful professional associations.

From this it is possible to conclude, that Peru represents mainly mercantilist system having few general with modern market economy. However representatives of a traditional right wing, trying облагородить commercial and business activity of the wards and to secure with sympathies of the western market experts, these two systems always confuse. The western people often do not realize, that their Latin American colleagues operate in the economic systems subordinated not to the markets, and a policy. Traditional left two systems also confuse: they consider, that though at us private possession of means of production prevails, needs of the country are not satisfied, from what the failure of capitalism and necessity of introduction of collectivist system follows. Both right, and left have succeeded only in discredit of idea of development through a legal private sector - simply because not in a condition it to distinguish from the out-of-date mercantilist system. Nobody has thought of that all made by people or the state depends on legal institutes of the country and that stimulus in market economy and in mercantilist system lead to considerably differing consequences.

Each of these systems wakens various enterprise abilities. In market economy ability to make as the principle of a competition prevails is encouraged; in mercantilist Economy ability to extract the privilege is encouraged and to use the law in own interests as the defining factor is state regulation. In a market economy consumers are served effectively and economically reasonably; in mercantilist only the public and private bureaucracy feels well - basically due to other part of a society. In competitive economy the businessman should satisfy the client whom interest only quality, the price and availability of a product outside of any communication with the manufacturer. On the contrary, in mercantilist economy resourcefulness and the social status of the businessman are determinatives at reception of favour from the state. Ability to conduct discussion convincingly, coherently, publicly or скрытно - is important, but the purpose can be reached also by intrigues or bribes.

In mercantilist economy businessmen and workers spend a lot of time for political intrigues, complaints, подхалимаж and every possible negotiations. Everyone should achieve attention of bureaucrats. Private circles involve more and more journalists, lawyers and intermediaries while the government requires all greater

number of bureaucrats for business management and a substantiation of decisions. That is why in mercantilist economy many people who could be engaged in trade, work in circles of public and private bureaucracy that is economically shameful as bureaucrats and lobbyists do not increase the work volume of manufacture or investments.

Probably, most significant distinction between two systems consists in a way of access to the market. In market economy everyone can enter into a market, make, trade or receive the governmental sanction without intervention of the third parties. In mercantilist economy access to the market is limited. Almost on everyone special licenses or sanctions are required, than constant necessity for the help from exclusive private groups or from the authorities protecting administrative passes is created. Necessity to spend 289 .дней on writing red tape to have an opportunity to begin industrial production; necessity to wait almost seven years to have an opportunity to build the house, - here obstacles, воздвигаемые mercantilist system on an input in the market.

As we shall see later before there was a modern market economy of the West it was necessary to abolish or overcome mercantilist institutes. The European mercantilism managed very dearly as the system should support nothing making bureaucracy and lawyers. They only differently перетолковывали the maintenance of the laws directed on the control, distribution, redistribution and granting of the privileges strengthened the state and served to benefit of certain businessmen. Mercantilist facilities of the Western Europe were much less rich, than market, come it after as all energy of bureaucrats, lawyers, businessmen was, from the economic point of view, растрачена all for nothing. Though some exclusive branches owing to mercantilist privileges developed better, than later in market economy, their growth rendered negative influence on development of the country. In fact the demanded volume of manufacture in these branches was reached by not economic methods, and their success inspired others on attempts to extract the same advantages by capture of authority or reception of protection. Thus absolutely forgot the main task - creation of riches.

### **Decline of mercantilism and occurrence внезаконных**

The mercantilism has gradually disappeared from the Europe owing to the inefficiency as the profits received owing to an expenditure of resources on redistribution, instead of on perfection of manufacture, have lowered value of the gross revenue in the European countries. The mercantilist states not only grew poor, in them also conflicts between citizens that led to undermining of social structures became aggravated. So during evolution or revolutions the European mercantilism has gradually disappeared.

Set of the general features convince us, that " the Peruvian mercantilism " tests the decline similar to volume which tested the European mercantilism from the end XVIII - on the beginning of XX century From this point of view especially important to investigate early decays of mercantilism and the further development of the various countries of the Europe, carried out by them whether voluntary, whether under pressure of circumstances. It will allow us to predict the future Peru.

From data available us follows, that decline of the European mercantilism has begun simultaneously with a massive migration of peasants in cities. The main reasons of migration were poverty has sat down also understanding, that only in cities it is possible to come into contacts to the mighties of this world redistributing national riches, and only in cities industrial activity is as much as possible safe.

Then, as well as now, inflexibility институциональных structures, administrative obstacles and mess stirred to creation of workplaces in private and public sectors of legal business of cities with such speed which was required for absorption of arriving peasants. In the Europe began to appear внезаконные. Legions of messengers of the goods have filled streets, illicit and незаконно the made goods have flooded the markets, on suburbs of cities have arisen незаконные settlements. Prosecution from authorities conducted to such маргинализации and has so increased a dissatisfaction with a life that flashes of violence took place. Then, as well as now, with growth of shadow economy the burden of taxes has laid down on constantly narrowed sector of the population - legal manufacturers to whom it was necessary for reduction of costs and taxes to get the most part of initial materials at теневиков. [This practice has been extremely widely widespread in the Great Britain.] It conducted to impoverishment of the state budget. As a result both in legal, and in shadow sectors have ceased to submit to laws that has given growth of political instability and has undermined bases of authority and legality in the mercantilist state.

With the beginning of stagnation in the industry of the European countries and with a wide circulation незаконной activity the mercantilist system has fallen into decay. Europeans have emigrated to the colonies, former colonies or in the countries which were more successfully carried out reforms. Many of those who could not or did not wish to emigrate, send away in shadow business or have adjoined blasting insurgent movements. Legal manufacture appeared more and more vulnerable, and the authority of guilds and перераспределительных syndicates - weakened. Political authorities have reacted to crisis by reading of sermons, prosecution of infringers of the law and acceptance of new laws against them, more and more entangling a society a network of regulation and the control. Opportunities of payoff of officials increased, and completely got confused governments which are not understood the nature of the problems, tried to soften consequences of crisis: distributing a handout, организуя free-of-charge dining rooms and trying to keep peasants in village or to return them there. Efforts of authorities have appeared insufficient: disorders, the eschatological

sermon, contrast between rich and poor in cities, criminality, violence and as consequence, easing of the state obviously foretold the end of the mercantilist states of the Europe. On their place arose either market economies, or a communistic collectivism. The reasons and remind characteristics of decline of the European mercantilism of a situation in modern Peru that is why deserve more detailed consideration.

### **Migration in cities**

The majority of the authors writing on this theme [Джан Де Врис, Economy of the Europe in the age of Crisis, 1600 ---1750 (Cambridge: the Cambridge Press of University, 1976); Coleman districts of Columbia, Revisions in Mercantilism (Methuen and Co., Ltd., 1969); J.H. Clapham, Economic Development of France and Germany, 1815 - 1914 (Cambridge: the Cambridge Press of University, 1963); Heckscher, Mercantilism], connect the end of mercantilism in the Europe with a massive migration in cities, with growth of the population as a result of deviation of a plague and other epidemic illnesses and with reduction of incomes in a countryside in comparison with incomes in cities.

In XVII and XVIII centuries the strict control over the industry allowed the French state to collect enough taxes for financing public works. Workers in cities began to earn not bad on royal стройках. To build palaces and fortresses many people were not required, but borrowed paid well. As the wages in cities were concerning big, and the direct and indirect taxation in a countryside - rather high, the most enterprising peasants migrated in cities, especially to Paris. In the end of XIX century poverty has sat down also industrial grants have led to industrial growth in cities and a massive migration in them.

In England the first wave of migration has begun rather early, in XVII century, and was so powerful, that the Law on a residence, accepted in 1662, has tried to stop it, having given world judges in cities the right to return immigrants in their arrivals. In 1697 before the person of a proceeding migration has been passed the law allowing immigrants to move inside of the country only at presence of the document given out by authorities, resolving settlement on a new place. Attempts to reduce migration by the help poor and jobless but provided that they will come back in places of initial residing were done. Any of these measures has not brought success.

### **Occurrence внелегальной activity**

In cities yesterday's peasants found out, that for them there are no workplaces. Restrictive rules, and in particular interdictions reduced opportunities of development of the legal enterprises to expansion of scales of manufacture and change of kinds of activity and, accordingly, their ability to employ new workers. The majority of migrants has passed through an initial stage of unemployment when it was necessary

to be interrupted by casual earnings or to serve as a house maid [Reid, Респуестас]. There is a significant similarity between inhabitants of the poor quarters surrounding the enterprises of the heavy industry of Peru, and the deprived of civil rights poor men occupied vicinities of trading cities of the Europe counting upon access to guild or on a place in legal business which would give the constant income.

Migrants and their relatives, not managed to find a permanent job, have gradually started to open house workshops. Many workshops worked the incomplete working day and as " the Economy of England " specifies Колман in work, " the majority of industrial productions was conducted by means of manual tools, almost without attraction of the capital equipment " [Coleman, Economy of England], Firstly inhabitants of cities rejected this production made outside of guilds and outside of system. In Spain till now in a course of expression " eres un punetero " or " vete hacer puneatas ", pejoratively hinting at ostensibly low employment - manufacturing "punos", т. е. Cuffs for shirts in small внезаконных workshops.

Being, however, unique alternative to the legal enterprises, shadow activity has extended very quickly. Хекшер quotes comment Оливера Голдсмита made by it in 1762 г.: " will be Englishmen who daily during all life would not break unpunishedly any laws a little... And only corrupted and selling execution of these laws " [Heckscher, Mercantilism, the edition 1, p. 323] tried to achieve. Two French decrees, also quoted Хекшером, recognize, that one of the reasons of default of technical requirements at production was illiteracy of workers. They could not execute even the elementary requirement of the law, - manufacturers of fabrics should place the name on a forward part of a product. But though many of these workers were not able neither to read, nor to write, they worked effectively. Adam Smith wrote: " If you want, that your work has been executed decently, it should be ordered on suburbs <in внезаконных settlements> where workers, not having exclusive privileges, rely only on the character <reputation>, and then you should contraband <that did not see authority> to deliver ready work in city " [In the same place., p. 241. Words in brackets belong Де Сото].

Between authorities and fine businessmen such constantly there were skirmishes. In preambles to laws and decrees of this period defaults and infringements are often mentioned. According to Хекшеру to protect manufacturers of a wool, in England in 1700 has been passed the law forbidden import ситцев from India. Despite of an interdiction, enterprising English manufacturers have adjusted manufacturing such fabrics, skilfully using exceptions and openings in the law. One of ways to bypass an interdiction on manufacture ситца consisted in use of a fustian - English ситца with a linen basis. As we see, new manufacturers gradually developed industrial productions, compelling the settled enterprises or to change according to requirements of time, or to quit the stage. In Spain тенивики also were exposed to

prosecutions and punishments. In 1549 emperor Charles I have published a number of decrees. One of the punishments, stipulated in twenty five laws, consist in trimming an edge at a ready fabric that *внелегалы* could not sell it, not having explained the buyer why the inspector has spoiled a matter.

Collisions between the state and *внелегалами* were not limited to infringement of laws. Pressure of the state was strong and (at least in France) extremely severe. In the textile industry every possible interdictions and restrictions in middle XVIII century were numerous and severe. Laws forbade to the Frenchmen to make, import or sell printed calicoes, and the range of punishments reached from a hard labour and the conclusion in prison up to a death penalty. However *внелегалов* it has not constrained. By estimations *Хекшера*, more than 16 thousand smugglers and underground manufacturers were *казнены* the French authorities under the law forbidden illegal manufacture and import of printed calicoes, let alone much lot of the people banished on galleys or punished in other ways. *Хекшер* mentions also, that once in Valencia 77 *внелегалов* have been sentenced to hanging, 58 - to *колесованию*, 631 - to the reference to the galleys, one is released also any not pardoned.

As consider *Экелунд* and *Толлисон*, so rigid prosecution *внелегалов* spoke not only aspiration to protect existing manufactures, but also that the new "know-how" multi-colour *ситцев* complicated taxation [Ekelund and Tollison, Mercantilism as the Society of Search of the Rent]. It was rather simple to reveal manufacturers of one-colour fabrics and to check up, how they pay taxes, and polychromy *ситцев* complicated search of manufacturers. Fiscal eagerness - one of the main traditional features of mercantilism.

In struggle against infringers of the law the state tried опереться on guild. But instead of correcting laws and to legalize *теневиков*, authorities toughened laws because of what wished to join in *внелегальную* activity or to continue it have been compelled to migrate in suburbs - *внелегальные* settlements of that time. When in 1563 the English code of laws about masters and *подмастерьях* has defined the levels of wages which are a subject annual revision in view of the prices for articles of prime necessity, many *теневики* have moved to country towns or have begun to create new suburbs (*внелегальные* settlements) where the state control was not so strict or at all was absent. Thus, *теневики* intervention of guilds avoided also, whose jurisdiction covered only cities.

Eventually *внелегальная* the competition has become tougher so, that at legal manufacturers does not remain other output how to transfer under subcontracts a part of manufacture in suburban workshops. It has still narrowed tax base because of what taxes, accordingly, have increased. Unemployment has as a result increased and excitements have begun, but also, migration in suburbs has amplified and practice of subcontract contracts with *внелегалами* has extended. With leaving manufacturers

from cities and with growth of number *внелегалов* process of easing of guilds has begun. The some people *внелегалы* operated so successfully, that by means of political pressure and bribes the right to be legalized have gradually achieved.

Guilds have undertaken counterattack. At Тюдорах the set of the laws forbidden creation of illegal workshops and services in suburbs has been published. However number *теневиков* and their skill to operate *скрытно* these efforts have brought to nothing all. To the significant defeats of guilds fixed by historians, business of guild of hats and blankets in Норвиче (England) which after long and widely shined suit and could not defend the exclusive right to manufacture of this goods [Heckscher, Mercantilism, the edition 1, стр 239 - 244] concerns.

The state, as well as in today's Peru, gradually receded under an impact *внелегалов*. In England where transition from mercantilist economy to market was peace enough, new laws in due course have legalized the rural and suburban industry. Authorities have been compelled to recognize, that many suburbs and cities are created to avoid specially the control over the state and guilds. In Sweden king Gustav Adolf has based a number of cities and settlements for *внелегалов* and, thus, has included them in the state system.

Efforts European *меркантилистов* to bridle distribution *внелегального* businesses have appeared vain. In England the state had to reconcile that new manufactures developed mainly there where there were no guilds or legal restrictions. All understood, that the boom in the cotton industry had the reason more liberal regulation, than in manufacture of woolen fabrics. Distinction between enterprise abilities of inhabitants of suburbs and inhabitants of cities, where rules mercantilist system was done even. In 1588 lord Sesil, minister of queen Elizabeth I, in the report described inhabitants of Halifax, one of new *внелегальных* settlements, so:

" they surpass the others in the politician and the industry, skill to trade and cultivate the ground, and on a background of roughness and the arrogance, reigning in their wild to edge, they are allocated with wisdom and prosperity. They reject old regimes if learn about new, more convenient, they prefer new ceremonies and do not keep for old ceremonies. They have a natural passion to the inventions, connected with strong diligence " [In the same place., p. 244].

In those days *внелегалы* built not only new settlements near to cities, but also houses in cities. In Germany, for example, to acquire the right to construction, it was necessary to pass test. Nevertheless, writes Клафам, " there were the whole areas which closely have been built up by houses though it was impossible to find anybody who would have the lawful sanction to the right to build houses " [Clapham in these areas, Economic Development of France and Germany, стр 323 - 325]. With a wave of migration in cities there was and *внелегальная* a trade. In England as writes Колман, decades after Restoration the some people *традиционалисты* complained of growth of number of messengers and street dealers, on the disorder which they create

at shops, on occurrence of new shopkeepers in set of small cities. Lawful dealers vainly tried to get rid of newcomers. In Paris judicial fights between tailors and sellers noшеной clothes proceeded more than three hundred years and have not ended even to the beginning of the French revolution.

Внезаконные undermined the bases of the mercantilist order as were competitive, operated aggressively and considered authorities as the enemies. In those countries where the state pursued незаконных and declared illegal instead of absorbing, progress was slowed down, and the discontent increased, result of that was violence. The most known examples - revolutions in France and in Russia.

### **Crash of guilds and перераспределительных syndicates**

Expansion of shadow sector inevitably weakened mercantilist guilds which basic function was restriction of access to lawful forms of business. Колман connects decline of guilds with "inflow of a labour, change of structure of demand and expansion of trade; development of new branches and significant distribution of the rural industry where the whole areas developed custom-made production from давальческого raw material" [Coleman, Economy of England, p. 74]. Moreover, in the countries which have managed peacefully to pass from mercantilism to market economy, the state has deprived with guild of exclusive privileges when has realized, that employment is more preferable than unemployment even if the employer is not recognized by guild. In England the political instability accompanied decline of mercantilism, has led to that more lesser and less people asked for guilds, facilitating these to the state sharp change of policy.

### **Corruption**

Similarly to guilds, the bureaucracy died away also. Though the mercantilism has announced the long period of economic growth in the Europe, excessiveness of the control meant, that it will be always accompanied with corruption. By the end of XVIII century the mercantilist management personnel has weakened, and here and there has been completely corrupted. Хекшер mentions the decree 1692 in which it was spoken, that in many cases inspectors visited workshops only for collection условленных bribes, instead of for check of the goods. Almost all industrial the inspector (appointed by guilds or the state) were constantly accused of corruption and neglect by the duties that explained then absence of civil valour and respect for the law.

Spot-check approves, what even English parliament which in the end of XVII century also had the right to give out sanctions to creation of the enterprises, took for it bribes. We already quoted word Оливера Голдсмита which has declared in the middle of XVIII century, that anybody except for people spoiled and selling did not

try to execute the law. The world judges appointed in suburbs allocated by administrative functions, have not been especially interested in the statement of laws and the rules which have been thought up in cities and unacceptable for their limits. In 1601 the speaker of the House of Commons has told about world judges, that it " creatures who for half-dozen chickens are ready to forget about the whole dozen of criminal laws ". As well as nowadays in Peru, then officials and politicians searched for the reasons of incapacity of laws not that it there were bad laws, and in their inadequate execution. In a lampoon 1577 it was spoken: " I have come to conclusion, that the best laws in these conditions are difficult for thinking up, necessary to execute only available ". Coming back to falling mercantilist system, Joseph Rejd approves, that all institutes of mercantilism have been infected by corruption which has divided the population into those who could outwit system, and those who was not able it. It considers inevitable, that the system of legal institutes encouraging one people to break the law and forcing others to suffer from it, eventually loses respect at those, and at others. [answers of Spot-check to the second questionnaire offered by Institute. Typewriting, Library of Institute; Heckscher, Mercantilism, the edition 1, стр 247, 251.]

### **Excitements and violence**

Eventually the mercantilist system has caused appreciable fermentation in the Europe and first of all legal institutes of this system more mismatched the changed and become complicated city validity. Inflexibility of mercantilist institutes actually excluded migrants from an economic life, and they have created its own variant, having reached up to cities. However there were also other reasons of excitements. Movings, difficulties of adaptation to a city life, and also overpopulation, and illnesses, which migrants have brought with themselves, strengthened fermentation. Колман notices, that in XVI century in English parliament complaints to " infinite beggars " and to substantial growth of number " swindlers, tramps and thieves in cities " [Coleman, Economy of England, стр 18 - 19] sounded.

The discontent was caused also with excessive rigidity of regulation: the more was rules, the more them it was broken and the was accepted infringers new to punishment more. Laws were multiplied, numbers of smugglers and counterfeiters spread, the government was involved in a turn of severe reprisals. " The fact consisted that it was a century of violence, and prosecution of economic targets demanded a support on force " [Wilson, Mercantilism, p. 27]. The violence reached fights in streets. And distinctions in ideologies or an accessory to different structures often became the justification of violence as people have been deprived hope, and only the few - by means of far not indisputable means - could make the way upward.

The government supervised everything, therefore all hopes were assigned to it. There was a picture typical for a mercantilist life: when earnings grew more quickly,

than the prices for the foodstuffs, owners demanded to limit increase in wages and when the prices overtook growth of wages, workers demanded laws on a minimum of wages and a ceiling of the prices for the foodstuffs. Political pressure has led to fastening of the prices, incomes and wages, and result became such decline industrial and an agricultural production, that neither minimal, nor ceiling prices could not solve a problem of deficiency, shortage of food stuffs and unemployments.

The most vigorous and self-assured have emigrated to situations of crisis and fermentations or adjoined revolutionary movements. During an epoch of mercantilism many Italians, Spaniards, the Frenchmen and other Europeans have emigrated to other countries in searches of the best future. In France prosecutions of huguenots and *теневигов* from the textile industry have pushed out for limits of the country of many businessmen and skilful workers - basically to England and Holland where they have achieved prosperity.

In 1680 there are mentions about *фатализме*, caused by impossibility to reach however *нибудь* appreciable prosperity: " the most part of fine manufacturers considers, that will never not cost any more and 10 pounds... And if they can support a life, working only 3 days in a week, they never begin to work 4 days " [Coleman, Economy of England, p. 105].

### **The state charity**

Angry by inflow of migrants in cities and continuation of fermentation, authority tried to support the world distribution of products to poor men, first of all - milk, grain and soup. Thus poor men convinced to return to the villages. When .в 1662, 1685 and 1693 the English government has passed numerous laws in this occasion, it has put a condition of reception of the help moving to the birthplace or a constant residence. The purpose was to prevent settlement of unemployed in cities. When the system has appeared disabled, and the human stream still overflowed cities, in 1834 has been passed the new Law on poor men which demanded return of city poor to the birthplace where to them and will assist.

It also has not worked, because unemployment grew, and the bureaucracy, ' managed the help poor, погрязла in corruption and has ceased to function. And rural люд found all new ways to locate in cities. However the system of the help that who remained in village, kept on a place family and elderly, and the single youth left in cities basically. Thus, in cities the stream of young, full forces of people which with success could become both businessmen, and revolutionaries has rushed.

### **Wreck**

In the majority of the countries of the Western Europe the mercantilism has failed in the end XIX - the beginning of XX century when have reached a limit of the contradiction of the system, already unable to operate a complex city society. Development of a mercantilist facilities has stopped, because the elite of business was engaged in development of laws and rules which would protect them from a competition from new methods of manufacture, and that who could make more - stirred existed laws. Preconditions of wreck became that-legal forms of business have gradually choked because of taxes and rules, and внезаконны openly broke the law and openly were indignant, that them hold on boondocks of a society. Ожесточенность productive structures affected in density внезаконных the settlements surrounded the centers of cities, in an abundance streets of messengers, beggars and beggars, a lot of illicit and it is underground the made goods. The civil life has been destroyed by violence.

Though mercantilist societies and circumstances of their decline were similar in all considered countries, results not always appeared identical. Those European countries which send from bad laws to good, have gradually calmed down and what opposed to changes began to develop much more quickly, than. The governments more inclined to compromises, have accepted the rules, given an output of creative energy of citizens. Encouraging interdependence and specialization, facilitating access to the property and business, reducing the obstacles created by excessive regulation, and opening access to the governmental and legislative circles, they that have made

transition to market economy with a minimum of violence and a maximum of well-being.

Good laws have made real political, economic and social freedom. It, in turn, has strengthened a competition and has expanded opportunities of a choice and suppression of abusings. An arbitrariness of bureaucracy has been limited, and legal and economic systems - деполитизированны, that has weakened authority перераспределительных syndicates, corruption and moods фатализма. Time which left earlier on adjustment of contacts and overcoming of bureaucratic obstacles, was liberated for manufacture. As soon as the legal system has been adapted for realities of a pluralistic society, mass business and technological progress, and it, and the state again have found social effectiveness. The state has had an opportunity to reduce a level внезаконной activity, to reduce a level of violence, gradually to reduce uncertainty and uncertainty.

The countries, opposed to changes and insisted on preservation of mercantilist institutes, could not adapt the legal systems for a new reality and continued to resist to needs and expectations of people. Almost all of them have gone through violent revolutions as a result of which one states have lead necessary институционные changes, others send to totalitarianism, the third by the long legalized violence have managed to keep the certain elements of mercantilism.

Two types of the situations arisen as a result of a failure of mercantilism are instructive: peace and violent. England - an example of the first. The second is illustrated with experience of three countries of France which has established system of democracy and mass business; Spain which changed between the legalized reprisals and attempts of liberalization, and kept полумеркантилистскую system long enough; and Russia where reprisals and confrontation eventually have led to an establishment of a totalitarian mode. The general for all these countries feature was enormous break between legal institutes and an economic and social life. However there is no opportunity to define, in what degree wreck of mercantilism can be explained by this break between the law and a reality or growth of shadow sector.

### **England: the peace decision**

Transition of England to market economy has not done without sufferings and violence as to leave traditions and privileges without resistance - a problem complex enough. Nevertheless, evolution in England was much more peace, than in three other countries considered further.

Being in many respects стихийной, transformation of England with 1640 on 1914 differed almost regular correctness. Not as a result of political revolution, and it is gradually right decision-making it was transferred from the state to private people. The country very smoothly got rid of authoritarianism, перераспределительной systems, absurd rules, privileges, the excessive control; it has stage by stage legalized

shadow manufacture and has distributed to all citizens access to benefits of legal system.

This evolution was result of some casual events and the conditions specific to England. To one of them became furious rivalry between a crown and parliament which since XVII century struggled for the control over economy. That one party forbade, another resolved. There was even a competition between various types of courts, and it was possible to win the process lost in other in one court. The fact of that it was necessary to defend action of illegal restrictions in various courts, complicated use of privileges given by them. Restrictions on access to business began to weaken only when parliament, competing to a crown for sources of the income, has solved, as itself could receive bribes for granting of privileges on creation of the enterprises. In 1825 the parliament cancelled the "exaggerated" Law. In 1833 it has admitted everything, and not just the full townspeople, to trade in London City. The laws, resolving to be engaged in business without a special permission on that, is simple on the basis of registration, have been accepted in 1832 and 1844 accordingly. England has opened an era of wide business in the Europe in 1862 when the parliament has decided, that any registered enterprise can have the form of joint-stock company with limited liability. Appreciable growth of earnings and gradual falling of the prices for the goods and services have begun with this moment in England, and in such degree, that the standard of life of working class in second half XIX century has grown on 100 % [C.R. Fairies, the Great Britain from Adam Smith by Existing Day: the Economic and Social Review (New York: Longmans, Green, 1928), p. 397].

Thus, constant attacks of parliament to the privileges given by agencies of authority, a competition between courts and expansion of shadow sector became the reason of that monopolies have gradually lost a legal protection. By the end of XIX century almost all population had an easy approach to the property and business. As mercantilist laws gradually lost the force, the common law recognized by all became stronger. New laws gave citizens freedom to do everything - not to the detriment of another, guaranteed access to a private property and the right to its protection by court. First of these freedom meant, that people could get the business and use own talents for the advantage. The second meant, that founders of riches have the right to use fruits of the work and investments, not being afraid direct or indirect экспроприации, not being afraid of the legalized arbitrariness.

The usual and contract right have become stronger. As mercantilist laws lost force, and the competition between courts stirred to their application, value of contracts began to increase, and for the lack of other opportunities courts have taken orientation to them. So Englishmen have gradually received means for voluntary cooperation, - the right to a private property, to the conclusion of contracts and to creation of the enterprises. Even the geography of England was adverse for mercantilism. Island position complicated struggle against import of contraband on

the sea, therefore the English industry had to remain competitive. Moreover, its geographical rivalry with Ireland and Scotland has given the last an opportunity simply to refuse from execution of the English laws put them in defective position. The mercantilist system has not long held on and in a countryside where there were no special stimulus to follow the rules favourable only to guilds and monopolies in cities. At last, because of constant rivalry of local authorities for attraction of new industrial productions in the areas, excessive regulation it appeared simply not sold.

The aversion перераспределительной authorities of the state has increased, when contradictory fractions have seen, that social excitements cease in process of деполитизации economy and simplifications of rules; to people have untied hands, and their energy has directed not on struggle against the state, and on productive work.

### **France: the first violent decision**

Accompanied extreme forms of violence transition of France to market economy sharply contrasts with rather peace English evolution. Though the French revolution has opened a way to changes, it did not liberalize the French economy: many decades and many changes before the Frenchmen have achieved the certain equality of economic and social opportunities were required. Napoleon has not destroyed mercantilist system completely, but up to any degree democratized access to business, having given all Frenchmen equality before the law. In XIX century France has gradually passed from mercantilism to market system.

Spot-check approves, that насильственность to the French revolution was directly proportional to cruelty of a preceded mercantilist mode. From this point of view any European country, except for Russia, does not illustrate better an extreme measure of mercantilist policy in XVI, XVII and XIX centuries System of monarchic management and the regulation, existed in France, there was so obstructionist, a suppression внезаконной activity - so severe, and absence of representative institutes - so obvious, that the violence has appeared simply inevitably. Other writers adhere to a sight, that laws and rules in France were no more restrictive, than in England, but the effective police and administrative device of France forced people to pay for any infringement of mercantilist laws dearly.

By the end of XVIII century it became clear, that the French mercantilism has ruined the country, has held down skill and love to work by unnecessary laws. The indignation against small, but very appreciable groups of rich noblemen and the bourgeois grew. Economic stagnation was accompanied by increase of reprisals against теневиков and other infringers of economic rules. The mercantilism was one of the main reasons of the French revolution 1789 " With exclusive force and speed revolutionary principles have found the practical form during the French revolution... Revolution consist.. In refusal of a traditional legal order. The authority of existed

state institutes has been completely rejected... " To one of the first problems of revolutionaries became a cancelling of all privileges and attack to mercantilist legal system. Taxes, " inspection and regulation of manufacturers... The Mercantilism, the edition 1, стр 456, 459] have naturally gone on demolition " [Heckscher.

The French revolution has rendered almost immediate influence on all the countries which governments tried to prevent similar explosions. As considers Хекшер, other Europe "has borrowed" experience of the French revolution to avoid its excesses, and has carried out reforms which have gradually developed market economy and democratic political institutes.

### **Spain: the second violent decision**

Similarly to other European countries, Spain in XIX century has led the reforms necessary for becoming of market economy. However, unlike the majority of other countries, advance went slowly as successes often alternated failures. During between acceptance of liberal constitutions in 1812 and 1898 occurred repeated collisions between those who wished to modernize economy, and абсолютистскими the forces, wished to keep mercantilist traditions. It is possible to tell, that supporters of modernization have won, as the basis of modern Spanish economy at this particular time has been incorporated.

In 1834, soon after declaration as queen of the Isabella II, guilds have been cancelled. Then private banks have been resolved, creation of joint-stock companies with limited liability is approved, the chaotic tax system is ordered. Little by little, by the end of XIX century were much is made that everyone has got access to managing. But from the end of XIX century, since loss of Philippines, Cuba and Puerto Rico, and up to 1959 economic liberalization in Spain has fallen asleep. Within violence, reprisals and dictatorships were restored the methods of management rather reminding mercantilism.

Return to a policy of mercantilism became swept especially up after the first world war and has reached peak at dictatorial mode Мигеля Примо де Rivera (1923 - 1929) when the constitutional monarchy has been eliminated. During this period the protectionist custom duties have been strengthened, means in development of public sector of the industry were put, the basic state corporations were created, and a quality monitoring of the market became clearly monopolistically. Again there were the basic перераспределительные syndicates which were united with authorities and have received wide privileges. Influential groups of the Spanish society have undertaken revival of mercantilism with its consequences - economic recession and social protests, and - creation of the extremely left government (very serious threat). Instead of policy of liberalization of a society they have selected a way of reprisals and support of the most radical right forces that has led to civil war 1936 - 1939

When war has ended, industrialists, financiers and land owners were united with the maximum officials, a management of army and фалангистами and have established rigidly regulated power control system of a society. During 1940 - 1959 in the country dominated неомеркантилизм, connected principles of traditional mercantilism over fascist corporativism - fashionable enough at that time a direction. All have united enmity to market economy and a liberal society and belief in necessity of mercantilist policy. The purpose of policy were economic self-maintenance and the accelerated industrialization, and methods - the control of the prices, manufactures and foreign trade.

Result again became necessity of licenses and sanctions practically for any economic activities. As sanctions are given out by people, fertile conditions for bribery and close cooperation of politicians, bureaucrats and exclusive private corporations were created. The rigid bureaucratic control and planning plus card distribution удушили economy;

the black market has revived and разросся so, that, according to Дионисио Ридруехо, the system has made many Spaniards criminals, having forced to live outside of the law [Cabrillo, Notaspara ale ILD].

After the termination of civil war reprisals have fallen upon the country. The law on October, 16th, 1941 has entered a death penalty for some economic crimes though more than 5 thousand person have already been sentenced to a hard labour and many thousand - to penalties. Especially severe punishments were provided accepted on November, 24th, 1938 by the Law on criminal punishments, Rules of currency transactions and additional decisions. Infringements of Rules of the currency control was so much, that it was necessary to transfer corresponding business to the special courts reminded military courts. With similar methods tried to provide and execution of the Law on contraband and swindle from December, 20th, 1952 which also was extremely widely broken. In housing sector, at all severity of punishments, evasion from a rent and non-observance of rules of purchase and sale of the property became usual business.

In 1959 Spain again has begun movement to market economy. A place of policy of an isolationism programs of reduction of the governmental regulation, liberalization of the prices have borrowed, reductions of number of the operating structures, stirred to growth of manufacture, mitigation of laws on work and restrictions on foreign trade. To that there was a number of the reasons. First, the former system contained economic growth: the level of the income per capita in Spain made third of a level of other European countries. It also the Spanish workers who have emigrated to the countries with market economy well understood, and groups of young technocrats and the economists accused the government that other western countries quickly develop, and Spain continues to lag behind.

Their position the success of the European General market, realization in France of plans of stabilization and the liberalization, developed by economist Jacques Rueffom have strengthened, and also growing influence on the Spanish policy of such international organizations, as the International currency fund (IMF) and the Organization of the European economic cooperation (OEЭC). And though process of liberalization in 1964 again was braked, Spain now moves (and, probably, is irreversible) to market economy. The Standard of living has considerably increased, and Spain will resemble all in a greater degree, apparently, the countries of the Western Europe, instead of on the Latin American modes which it and has created.

### **Russia: the third violent decision**

In Russia the end to mercantilism was put with violent revolution which has led to creation of bloody totalitarian system and collectivist economy. The result proves, that than more the forces aspiring changes suppress, it is especially probable, that professional revolutionaries will seize power and will establish totalitarian system. Russia evident to volume an example as unlike other European countries which have carried out necessary reforms after napoleonic wars, authoritarianism here has been kept, and together with it economic instability and social excitements. At least up to 1905 absence of the parliamentary government, severe judicial system, a rough and severe police force did not promote neither to economic development, nor search, alternatives. Access to the market has been complicated. Business was possible only at the special sanction of authorities.

Last third XIX century poverty of rural areas and grants for development of the industry have allowed cities to be industrialized to some extent, but result became a massive migration in cities. As well as in other countries of the Europe, the Russian authorities and owners of the legal enterprises could not expand industries supported by the state so quickly to give a place to potential businessmen and workers. Symptoms, characteristic for decline of mercantilism have as a result developed all. In 1905 there were severe collisions with authorities, and only then have been carried out some reforms which have opened wider access to business and participation in acceptance of political decisions. However reforms in a due measure have not worked, and growth of employment in the Russian industry has appeared insufficient as appreciably suppressed with a bureaucratic regulation and the control.

When during the first world war manufacture has fallen into decay and could not provide the country with necessary products, there were favorable conditions that at support of people to discharge tsar of authority, as has ocured in February, 1917 And in October of the same year the authority was grasped by bolsheviks. Shortly before it меньшевики have specified necessity of encouragement of the private initiative, but bolsheviks have sharply objected, that "capitalism" in Russia already

was and has failed. Certainly, bolsheviks, not knowing about it, spoke about a mercantilist facilities as in Russia of market economy never was.

If from experience of the European countries also can be drawn any conclusion it consists what mass resettlement of peasants in cities which consequences have been aggravated by contradictions of mercantilism, has resulted economy of these countries in a condition of stagnation. Laws have lost effectiveness, and authorities have lost ability to operate.

Струни Which gradually changed the institutes and could bring laws into accord with the validity, more or less smoothly send to market economy and prosperity have achieved. The countries, opposed to changes, have been involved in infinite to a turn of civil wars, violence, political adventures, revolutions and incessant excitements. Неработоспособность mercantilism and the disorder created by it became a nutrient medium for every possible каудильо and dictators, whether it be Робеспьер, Фуше and Napoleon in France or Примо де Rivera in Spain. Violence and институциональный chaos mean, that the opportunity of peace and democratic transition to market economy is completely lost. The probability of accrues that as a result of the intense struggle or bureaucratic intrigues triumphally will arise new Ex or Stalin. Almost always the direct result of it appeared reprisals, and long-term results were defined not by a democratic choice of a society, and belief or self-interested calculation of the leader and decisions of those who in days of disorders or reprisals has managed to steal up to the center of authority.

From the European experience it is necessary to acquire, that the weakening mercantilist government, opposing necessary институциональным to changes, opens open space to violence and the disorder. By mass reprisals it can delay inevitable transition, but sooner or later contradictions will be resolved: or a celebration of communistic dictatorship, or through democratic system and market economy.

## **Chapter 8. The conclusion**

### **Capacity of legal institutes**

#### **Violence**

#### **Survivability of mercantilism**

#### **Political libertarianism**

#### **Left and right меркантилисты**

#### **Hopes for the human capital**

#### **The plan of changes**

#### **Final remarks**

*Revolutions, true revolutions, - not that only change political forms of the state*

*and members of the government, and that will transform  
institutes of a society and the attitude of the property,  
- become ripe подспудно, while casual  
circumstances will not ignite them.  
Albert Maties*

### **Capacity of legal institutes**

The Peruvian mercantilism - in decline. It is extremely improbable, that it will return capacity and a situation will cease to worsen. When these lines, despite of time revival of legal institutes of Peru, - usual consequence of the hopes accompanying election of the new president are written, - the mercantilist system continues to die away:

On October, 8th, 1985, in two months after election of the new government, Minister of Internal Affairs has informed parliament on 282 certificates of capture of the ground in it to year, and 153 have occurred already during its stay in a post. The government for the same term has given out only 3 lawful sanctions to the right of possession of the ground.

Owing to intrusion *внезаконности* in all spheres of daily occurrence, our legal institutes have gradually lost capacity. In housing construction, for example, the government had to legalize anyhow the rights to the property got as a result of capture, and *внезаконные* settlements have received certain not quite high-grade, but the lawful status. Cunningly that authorities have been compelled to grasp the property for realization of the housing projects. In sphere of a municipal transportation the state had to recognize captures of routes of transport by pirates and owners of minibuses. Municipal authorities practically all cities Perus have reconciled to necessity to negotiate with street dealers and with that fact, that on each market constructed by the state, street dealers build twelve more.

The government hands over positions, and it means, that legal institutes have ceased to be tools of management of a society and a life. The mercantilism any more does not approach the Peruvian society. And as legal institutes any more do not carry out the public functions - do not protect people and do not open before them opportunities of fruitful activity - the majority of Peruvians have started to understand, that the system is unfair and more likely separates, than unites people.

Prior to the beginning of a massive migration of last decades to the state remoteness *андского* the population disseminated and isolated in agricultural communities and manors was favourable, is released to it hands for maintenance of an established order. The behaviour of similar groups did not limit capacity of the state. In the inheritance from the Spanish sovereignty and vice-kings the country has received system of the rigid social control. Exclusive groups have been assured available sufficient number of hands and that the agricultural population will manage

to be held far from cities. Moreover, dispersion of the population complicated the organization of revolts and formation of revolutionary weights in cities.

Last four decades, in connection with migration and increase in number of urban population in 5 times the situation has sharply changed. The agrarian reform lead by general Velasko Alvarado in 70th years, has finished destruction of dominated социо-economic system at which it was easy to supervise the scattered agricultural population. Now the majority of Peruvians live in cities and do not wish to come back back as the economic and social reasons which have forced them to move to cities, are powerful enough. These people already cannot be held in isolation.

Migrants wished to join in usual legislative activity but as it was stirred by legal system, they had to survive outside the law. With growth of number of migrants and внезаконные norms have got stronger their institutes and have extended, having created an enormous gap, through which escalating share of the population - even those who traditionally lived in ладу with the law - began to leave from difficult выносимого burden законопослушания. Внезаконные institutes and the protected space created by them gave everyone an opportunity to resist to the mercantilist state.

Intrusion внезаконности in all spheres of a life went to last 40 years so gradually, that its influence have felt not at once. The mercantilist system has lost capacity not suddenly, and smoothly and almost imperceptibly. In July, 1980 militarians have returned authority to the civil government because their stay at authority has lost sense. On July, 28th, 1985 president Fernando Belonde Terri has transferred a post to the successor to president Alan Garsija Peres almost under the same circumstances: the candidate of its party has received on elections only voices on 6,24 %.

The policy of the former governments of Peru is noted by absence of continuity. Following mercantilist tradition, politicians began with distribution of promises and promises, but the most part of the raised expectations was simply impracticable. Thereof presidents became the extremely unpopular by the end of board, and their successors had to invent new programs, and anything similar to " the national project " simply it was impossible. Absence of continuity in work of the governments weakens system and raises appeal of the most extremist decisions that does the state by nobody interesting. Same reduces the period of goodwill to the new government so if the new president and will excite new hopes, it does not mean yet, that the belief in system of authority was updated.

### **Violence**

Already clearly, that the central problem not in that, should or institutes of the state from philanthropy and for внезаконных should not open, and in, whether they will manage to make it in time, to avoid violent destruction of representative democracy. Hence, it is the extremely important to understand, whether are legal vulnerability and lack of prospects for the majority of Peruvians - the basic sources of violence over the

country. If there will be, that it so, it is possible to approve, that two revolts against the mercantilist state are simultaneously carried out: the mass and peace movement begun *внезаконными-теневиками*, and the bloody movement of small groups begun, in particular, by communist party of Peru and named " сияющий a way ".

The poorest and dissatisfied people cannot accept a society in which opportunities, the property and authority are distributed any way. People understand, that/legal institutes of the country do not allow them to realize reasonable expectations and do not give a minimum of lawful opportunities and protection. Wreck of hopes can lead to violence: or to active participation in it, or to its indifferent acceptance. Eventually, if legal institutes exist to protect the individual rights and the property from the third parties, to order access to productive activity and to facilitate harmonization of interaction with other people it is clear, that the people, deprived all it, can rebel.

Even to the most legislative and peace citizens it is clear, that existing legal system - bureaucratic red tape, reception of the blessings out of turn, bribes and roughness - are *кафкианская* a trap interfering an effective utilization of resources of the country and work of its citizens. It is unacceptable for the poorest as the majority of discrimination laws and institutes just cover management of economy, that is the main channel of vertical mobility. Wreck of hopes at the best supersedes people in the black market, in the worst - pushes to criminality and subversive activities. Aggression is a reaction to wreck of hopes, that is to a precipice meanwhile, that at people is, and that, on what, in their opinion, they have the right.

Something similar occurred and during fading mercantilist modes in the Europe: granting of opportunities only that who had necessary political contacts, has generated feelings *фатализма* and hopelessness. Who has not reconciled to defeat who possessed energy and belief in chose emigration or revolution. Mass emigration as in southern Italy, has carried away behind itself the people, capable to become the catalyst of changes. In the same place, where emigration has been forbidden, the state and police conducted long struggle against militant rhetoric and terrorism - struggle which has made economy of such countries unproductive and has destroyed stimulus for investments.

If the massive migration is impossible, as, for example, in Mexico, and necessary reforms are not spent, the most probable result of decline of mercantilist system will be violence: revolution or reprisals. Eventually, we know, that villages in cities are left basically with youth to which does not need to care of family. The most enterprising quite can simultaneously appear the most aggressive and aggressive. Age and difficulties of adjustment of personal mutual relations, far from the native house do a life their easy extraction for the sermon of violence. Casual earnings, absence of prospects deprive with their stability and kill hopes. The mercantilism almost always terminated in violence, and there are no bases to believe, that in Peru will be

differently, especially if authorities do not wish to show flexibility. It is possible to approve, that if some countries as, say, Russia, send from mercantilism to the state terror Spain and some other after decades of authoritarianism move to market economy. However people of these countries were never free from violence, and only the help of neighbours has helped them to finish transition rather peacefully. In Peru such emergency valves are absent. The opportunity of revolt now is much more, than before. The weapon became more effective and simple in circulation. Our deserted city areas with uncountable back streets and gates, our people who have disabused all enable extremists to be mobilized quickly and so quickly to disappear. To regret, there are no bases to believe, that the mercantilism will stop to provoke violence over Peru.

### **Survivability of mercantilism**

Revolution against the mercantilism, gained in strength within decades, but only recently found real power, continues to accrue, and this revolution - intrusion в нелегальности.

Probably, owing to a colonial heritage or because of absence of experience of the present decentralized feudalism, the mercantilism lives in Peru at least for century longer, than in the Europe [Клаудио Велис, Ла Традицион Централизя de American Латиноамериканка (Barcelona: Арил, 1984)]. However some symptoms of defeat already it is available: в нелегальная activity, frequent captures of the property, mass infringement of the laws, the first elements of market economy, the anarchy generated by transactions with authorities and bureaucratic privileges, and also many other things the factors which preceded industrial revolution in the Europe and have affected its course. In shadow sector of Peru there are no large enterprises, but they were not and in the beginning of industrial revolution in the Europe. More truly, they were not, obstacles to mass business yet have not started to disappear and the legal situation that has made possible occurrence of the modern industry has not changed.

Though the basic components economic and a social revolution in Peru already are present, legal institutes of the country still have obviously mercantilist character: wide access to private business is complicated, for the lowest classes in general is impossible; legal system - bulky, obstructionist; there is a powerful public and private bureaucracy; перераспределительные syndicates render strong influence on lawmaking, and the state interferes with all fields of activity.

Not running into temptation primitive историцизма, we at the same time should not forget, that our present is result of the long mercantilist tradition which have come from Spain. Representation of politicians that the present government should be the centralized monopolistically authority, similar, differs from then ideas a little. In this occasion Donald of M. Дозер has noticed:

" acceptance of the Supreme and overwhelming authority of the state is peculiar to Latin America. The Roman right and the Code which has developed it of Napoleon, generated a basis of legal system of Latin America, are focused on

authority of the state Though латиноамериканцы successfully battled to Spain, Portugal and France in wars for independence, tradition governmental абсолютизма and the centralized authority of the state as determinative of a human life, an example to that were Phillip II, Помбал and Napoleon, rejects a long shadow to modern Latin America - being not only idea, but also a basis of actions " [Donald М.дозер, Are Us Good Neighbours? (Gainesville: university Floridskoj of Press, 1959), p. 276].

By virtue of legal and political tradition, our governors, even демократически elites, receive absolute authority above economic and social activity, and it is impossible to imagine any property rights or contracts which the state cannot break any way. The state has practically all legal tools to influence institutes which as it is considered to be, stabilize business activity: the administrative device, able to withdraw or freeze private resources; the unlimited rights in relation to any resources which have been not fixed to private persons; an opportunity to define import and export tariffs to give out licenses, to establish rules of a currency exchange, the price, to supervise the most part of contributions and credits. It can influence also exporters through compensatory agreements and accommodation of grants, supervises the purchase and sale of the state monopolies and has practically all conceivable - externally harmless - means of encouragement and redistribution of resources of the country according to any political criteria. All these opportunities are usually hidden behind magic words "planning", "contribution", "regulation" and "participation". Practically in all cases there is no mechanism of effective protection of the rights of the majority of citizens from the state.

As a result, though all protagonists of our economic life - the state, private businessmen and consumers - the same, as in the market economy, the enormous authority of the state and its communication with the certain figures of a private sector do interaction between them quite mercantilist. Laws of Peru give the state such boundless authority above the property and an economic activities, that our country in full sense never was the country of proprietors, and more likely - the country узуфруктуариев, tenants. Therefore to businessmen there is a sense to direct a significant part of means not on fruitful activity, and on introduction to bureaucratic circles, thus to protect the interests. In spirit of kind old mercantilist traditions, it is much more favourable to serve politicians, than consumers.

### **Political libertarianism**

**Naturally enough, that so the greater authority forces our governors to trust, as if their will defines a course of things. We shall name this belief so typical for mercantilist modes, "political libertarianism". Its ideological basis is that school of a legal idea which sees result of conscious actions of the government in social institutes.**

**It, certainly, illusion. Any person and any governor not in a condition to capture all process of social evolution, and furthermore in so quickly varying society. The government which has begun the program of mass housing construction in capital, did not represent, that, at all credit status and influence on manufacture, the state can enclose in business only 1 dollars on everyone 60 dollars enclosed in construction, **внелегальных** settlements. Mayors of Lima in any way did not assume, that for last 20 years they will construct only 1 market on everyone 12, constructed **внелегалами**. Lima responsible for public transport could not imagine about 20 years ago, that 95 % of transport services will give **внелегалы**. These figures show, that progress is not pure result of actions of the state. Such conclusion is capable to surprise, as contradicts widely to a popular belief, that our governors are capable all the nobility and all to make. The political libertarianism complicates understanding as there are those or other events if they are necessary to the people who are not having any authority.**

**Who thinks, that the order of things changes only because to authority come more persevering and skilful, make an enormous conceptual mistake. In the city society overflowed by a wave of migration, no governor can know everything, that occurs in the country, and the new social order cannot have a basis they be absent in a reality - knowledge. In a society where specialization does interdependent millions people where there is a complex communication system between manufacturers and consumers, creditors and debtors, employers and workers, in a society with constantly developing technology, with a competition and a daily stream of the information from **других** the countries it is physically impossible to know even a small part of national activity and directly to operate her.**

**By virtue of it opportunities of the governmental intervention are limited. Though there are enormous opportunities to benefit, at all the fact, that for this purpose it is enough to have the governmental powers. Governors are usual people with the limited opportunities, colliding with huge and uncountable problems. Having concentrated on one, they automatically overlook many other things. They are compelled to choose between the general and private problems, between **крупномасштабными** and detailed decisions. If they will allocate the certain problems will lose an opportunity to operate the country and are doomed to failure. No enthusiasm will increase their opportunity, and they are capable to reach only to what voluntary aspire the majority of Peruvians - by virtue of belief or personal interest. Not governors create riches: they sit, say speeches, accept resolutions and decrees, create documents, inspect, observe, raise, but do not make. Makes people.**

**That is why so important to have good laws. When legal institutes are effective, governors can make a lot of useful at a minimum of actions. For this**

**purpose it is necessary for them to cancel the bad laws of mercantilism aspiring зарегулировать any-trifle, any transaction, any property, and to replace with their effective laws encouraging achievement of desirable result. Only good law is capable to make a reality compact and operated. Only effective legal institutes can counterbalance somehow limitation of governors and complexity of the Peruvian society.**

**Probably, the political libertarianism also was successful in small primitive economy, but it is disabled in the modern urbanized society. In the dynamical, unpredictable economic activities covering millions of people, the ingenuity concerning new opening and technologies or in detour of the governmental control is so great, that the government is simple not in a condition to operate with the same speed, as a society. That is why to the Western Europe with crash of mercantilism the political libertarianism has disappeared also. Industrial revolution was impossible, while politicians have not left attempts directly to operate economy.**

### **Left and right меркантилисты**

Перераспределительная the tradition is so steady, that so-called democratic parties of Peru of the left and right wing are basically mercantilist and, thus, have much more the general, than think.

Any of the left or right leaders, be it on national or local to a post, has never tried to eliminate the obstacles depriving simple people of access to a legal society. Instead of it both parties resorted to mercantilist tools. Both directly interfered with economy and expansion of the state activity promoted. Both strengthened a role of the governmental bureaucracy while that instead of the main engine has not turned to the main obstacle. Together, never having consulted to voters, they have brought into the world almost 99 %-s' laws. Both have not managed to transfer in private hands the decision of problems with which the bureaucracy has not consulted: or from disbelief in ability of people, or because of ignorance how to shift the responsibility.

Undoubtedly, there is a difference between right and left меркантилистами: the first aspire to serve interests of foreign investors and national business, and the second redistribute the blessings between requiring. But also those, and others do it by means of bad laws which obviously go on advantage one and to harm - another. Though the purposes left and right seem different, as a result of their activity in Peru losses and purchases of any person are defined by political decisions. The fox and the wolf, certainly, very different, but for the rabbit important their similarity.

Both left, and right as they operate mercantilist system, more all are anxious by redistribution of riches, instead of creation институциональной bases of its manufacture. Not having managed to open to millions migrants access to legal manufacture, left and right have equally run into confusion because of poverty reigning in cities and resort to old mercantilist dodge - submit disguised and ridiculously poor alms. Today both left, and right see a problem in incapacity of laws. But, similar, neither those, nor do not represent others, that the problem itself offers also the decision: to use the energy inherent in the given phenomenon, for creation of riches and the new order. Probably, such transformation of a problem to the decision smells slightly of alchemy, and can be left and right are afraid of mass, public displays of the private initiative. As the presents меркантилисты, both those, and others feel easy, only when answers come from the top floors of authority, in the centralized order.

Especially good example of such tendency is regulation of street trade (stated in the chapter about внезаконной to trade), which municipal government of Lima controllable left марксистами, has entered per 1985 the decree 002. If instead of the most severe regulation of street trade of authority have borrowed in removal of obstacles and have facilitated теневикам establishment of the enterprises and access to the legal market of credits that they could build more markets, to 1993 all trade is already cunning from streets.

It is remarkable, that mayor of Lima, pressing the initiative of street dealers, has simultaneously openly encouraged private construction of the markets directly in the center of Lima. The policy left in municipality was more likely mercantilist, than socialist, and a little than differed that would make in the same situation right.

Traditionally left and right protect also the protectionist and allowing order, and anybody from them did not care of measures on integration of beginners and simplification it of access to a market competition. Instead of thinking, how to enable people to operate market forces and to force them to serve social interests of the country, they try to replace these forces system of the board preceded Industrial revolution in the Europe.

Deal with problems теневиков, left and right gave not enough attention to reforming of system of the right, its adaptation to new realities of manufacture. Anybody at all did not think of that the majority of poor Peruvians are on a step ahead of these revolutionaries and already change the device of the country. Nobody realized that a unique problem of the government - to supervise over changes, giving to them appropriate институциональное registration that they kept controllability and utility. As a result voters of Peru have appeared before an awful dilemma: it suggest to vote for constantly getting stronger state or the right sense, patronizing various private groups, or the left sense, resolutely aimed on the state capitalism which can appear even more pressing, than mercantilist system.

Clearly and that for many owners of legal business stunned by costs on законопослушание, is more natural to cooperate with the interventional government with which it is possible to come to the agreement than to protect impersonal market economy where is not present capable to protect their allmighty governors. For them the ideal of a private sector is capitalism without a competition, connection of the state trusteeship and private management - mercantilism.

At all this, the rhetoric our traditional left and right rather reminds speeches of their foreign supporters. There was an illusion as if Peru, as well as to the western democracies, the pluralistic policy is peculiar, that the right wing wishes to strengthen private business and to protect public freedom, and left aspires to help poor and to eliminate social injustice.

They are mistaken. Traditional right are not carriers of the principles underlain industrial revolution, and their social philosophy is not compatible to liberalism (as XIX centuries understood it in the Europe). In Peru economic liberalism covered conservative mercantilist policy, instead of the instrument of destruction of mercantilism as it was in the Europe. Our governments when it needed to be looked attractively before the West, appointed "pure" liberals to strategic posts, and those applied the theories at a macroeconomic level, but did not change the legal institutes serving to internal discrimination. And even these people cleaned from the government when the mercantilist establishment appeared it is very dissatisfied.

The Peruvian liberals and conservatives converged that discrimination state intervention is necessary owing to "cultural backwardness" Peru. These liberals use the most up-to-date slang of the macrotheory and refer to works of orthodox liberal economists but when business reaches internal social and economic problems, they make a choice in favour of the prohibitive legal mechanisms rather far from liberalism. Result became some kind of internal legal апартеид when activity of a small part of the population is quite legal, and all the others operate partly outside of the law. That is why in addition to laws on city construction the regulations about велегальных settlements were accepted, the system of rules of law for legal transport has been added by exclusive rules for minibuses, and near to a traditional commercial law there were the decrees directed on street dealers. Traditional right never thought of creation of laws, identical to all. Believing, that the mercantilism contains all necessary for the advanced liberal society, and now are required only foreign capital and, probably, higher cultural and racial basis, liberals spent the most part of the efforts to protection of ruling class, its culture and traditions. They never aspired to carrying out of reforms and creation of the institutes necessary for development of modern economy, addressed to all layers of the population.

Something similar occurs to the extremely left as though they and have won sympathies poor, their economic projects are correctly directed on the state capitalism and do not take into consideration potential, the initiative and energy of people. In it they are quite reactionary. We are convinced, that such approach finally will eliminate an opportunity of coming to power of the left government democratic, nonviolent by.

So, before us surprising paradox: the majority traditional left and right trust, that at us Peru exists the liberal status quo. Proceeding from this assumption mercantilist businessmen address to the western governments and the allies in a foreign private sector for the help in preservation of system which is ostensibly similar to that that exists in the West. Left, from its part, ask from the ideological allies abroad the help in liquidation of liberal system which, in their opinion, has failed that is why it is disabled. Both those, and others are mistaken: Peru is not a liberal society. This mercantilist society.

Thus, when conservatives and left in the USA take positions in the Peruvian conflict, and the first support right, and the second - left, they do not give themselves the report, that actually support only mercantilism in one of its numerous appearances. Both parties lose, for give extremists the exclusive control over changes. Supporting traditional right lose more as become defenders of the status quo connected with lawlessness and poverty. Неолиберализм, called to the USA "неоконсерватизмом", it is not presented even not in a local political spectrum and almost does not render influence on the Peruvian intelligency.

### **Hopes for the human capital**

Probably, most serious harm caused by the mercantilist approach to the validity, consists that it has obscured brains to set of people. Both left, and right equally cherished mass bias against business.

The left romanticism eulogizes and even extols commoners, certainly, provided that they are content with a dependent role and do not try *организоваться*. People thus is considered as the passive object requiring the same programs of the help, as invalids and unemployed. It as though left appreciated among workers only losers. Such approach a little than differs from *патернализма* right which simple people while it is a question of true servants, handicraftsmen or a folklore originality of common people also are nice. And those who opens own business and demands money for services, establishing the prices according to requirements of the market, they do not approve. Then indignantly speak, that their prices "are unreasonable", and enterprising workers name "thieves" or "swindlers". Both left, and right recognize the right of metises from high-mountainous plateaus to live among us, but only till that time while we are necessary to them as organizers and employers.

Competitive business people both in legal, and in shadow sectors actually is new generation. They *отвергли* protection of politicians. They, perhaps, both are unkind, and ill-bred - recollect, that speak about drivers of minibuses and street dealers, - but skeptical bureaucrats or selectors of privileges provide stronger basis of development, than. These enterprising people have left native edges, have torn with the past, not having any guaranteed prospects on the future, they have learned to reveal and satisfy needs of others, and their confidence of own forces is stronger than fear before a competition. When they begin something, they know about risk of failure. Daily they collide with a dilemma: as how to do? Under what price to buy and sell? Whether they can find constant clients? Behind each product offered or made, behind all visibility of chaos or relative *внезаконностью* the most complicated calculations and difficult decisions cost.

Ability to risk and count is very important, for means, that the wide base for business is already created. To Peru the shadow sector has transformed the big number of people into businessmen. They are able to achieve success, rather effectively using available resources, including own work. It also is the base of development as the riches are result of connection of interchangeable resources with productive work. The riches are created by mainly personal efforts of everyone. It collects little by little in the market where the goods exchange, services and ideas and where people constantly study and adapt to needs of others. Brings riches not possession resources, and knowledge of how them to use.

The new business class is rather valuable resource: it is the human capital necessary for economic rise. It has helped to survive that who had no anything, and served as the emergency valve for dump of social pressure. It has informed mobility and market *приспособляемость* to a wave of migrants and actually does what the

state never could make: involves set of outsiders in system of a monetary exchange. Benefits, приносимые Peru these new businessmen, much more outweigh harm, наносимый terrorists and меркантилистами. The overwhelming majority of the population has one overall aim - to overcome poverty and to achieve prosperity.

Before us two problems: to release energy теневиков from a vice of retaliatory legal system and to transfer vital force, persistence and hopes of an arising business class to other population. The decision is those: it is necessary to change legal institutes and to lower costs of achievement of riches, and also to open to people access to system that they could participate to economic and social activity and compete on equal terms. A ultimate goal - modern market economy which while is the only thing known by the development based on mass business.

Enterprise resources of the country can be shown only when it dominating institutes allow. To look at the Peruvians doomed in the country on poverty and vegetation, but reaching success in other countries, where their activity ограждена corresponding institutes enough. The economic system of a society is defined by how its legal institutes operate. In mercantilist system only few groups have access to business. If such access is opened only to government officials, before us the state capitalism, collectivist system. And if each citizen, despite of its origin, color of a leather, a floor, an occupation or political orientation, has real access to economic activities, then before us truly democratic economy - market economy.

Extremely important, on what place in a society we shall put the business initiative. If it will be accessible to all Peruvians, we can open huge enterprise resources. The more people can participate in economic activities and find existing opportunities, the it is more potential of development. Force of market economy that it leans on an ingenuity of people and its ability to work, instead of on the limited opportunities of any way selected elite. It is necessary to pass only from system in which people are subordinated to the purposes of the state, to system in which the state is placed in the service of people and to a society.

### **The plan of changes**

We have seen, that for a nonviolent withdrawal from mercantilism it is necessary to approach legal system to the validity. The given book shows, that the existing system of lawmaking was unable to go in step with events, and it has generated discrimination against common people and disrespect for laws.

The finding of ways of a peace withdrawal from mercantilism, hence, means reorganization of our primitive legal institutes such-image that within the limits of constantly becoming complicated and more and more various society peace interdependence and development became possible. Since times of the Spanish gain there were no so powerful and far-reaching changes, as that occur now in Peru. We do not consist any more of self-sufficient communities, and gradually we become more

and more interdependent. Changes will proceed, and we should invent legal institutes and forms of board which will allow us to cooperate peacefully during long and, probably, incessant process of changes.

For this purpose to us follows опереться that is really efficient. Speaking определеннее, it is necessary опереться on внеделальную system, which as we saw, приемлет the majority of the population. This system adjusting the property rights and contracts, which capacity provide decentralized внедегальные the organizations, has developed during the voluntary adaptation to new circumstances. The basic norms внедегального the rights are more universal and are abstract, than norms of mercantilist system as they are reaction to occurrence of the urbanized society which in the sizes and variability surpasses a traditional Peruvian society. They represent result of process of spontaneous adaptation to a life which demands greater interdependence and coordination.

These norms are imperfect. They are not capable enough because of absence of system of compulsion, not кодифицированы and are not exact enough because of shortage of technical terminology. But it is possible to not doubt, that they approach for our society as significant number of people voluntary them observe. The economic theory specifies, that such voluntary submission to norms takes place only when внедегальная the system is rather more effective, than the official right. Any society not begins to submit to laws which do not approach it; and many from what follows submit to these, that they are effective. Moreover, these внедегальные laws are the phenomenon cleanly Peruvian, it is result of national experience. Spontaneous generation внедегальных norms shadow sector became the beginning of transformation of the existing order, has specified a way of development to legal institutes if they wish to adapt to new conditions and to become again useful to a society.

The system which will make possible spontaneous ordering of economic activities is necessary legal and институциональная, will eliminate handicapes to legislative business and will provide to it lawful guarantees, will transfer that responsibility and the initiative which the state so fruitlessly monopolized in private hands. All this would allow legal system to become again useful to a society.

Existing legal institutes do not allow us the nobility, how different groups of Peruvians understand a good life and the due decision of the problems. Last 40 years of claim and achievement of our population constantly surprised governors of the country. Partly it occurred because at Peruvians the different purposes, and they vary during fast evolution, диверсификации and an individualization. But it is clear, that there is no need to try to impose already here which time to the country " the national project ", assuming achievement of precisely certain results. It is simply impossible in the country with so diverse and numerous population, as Peru. Laws should provide to

everyone an opportunity to put and reach the purposes if they do not bring harm to another. A variety of Peruvians ценнее, than their similarity. Than to put to itself an excessive problem to develop overall aims, we need to agree about lawful means of achievement of any lawful purpose.

It is necessary to operate in two directions. First, it is necessary to solve институциональные problems: to remove the obstacles, stirring integration of legal and shadow sectors. Secondly, it is necessary to create conditions for the decision of the future институциональных problems so - to change methods of lawmaking. Below we shall consider both directions of actions.

### **Existing институциональные problems**

First of all figures both legal, and shadow sectors should be integrated by the uniform legal and economic system excluding discrimination. It will allow all population to realize the creative energy to the full.

When speak about integration of the legal and shadow sectors, one mean "иллегализацию" figures of legal sector and their clearing of legal restrictions, and others - "legalization" теневиков and reduction of negative consequences внезаконности. Such integration should mean actually two things: elimination of useless restrictions in legal system and an opportunity to any wishing is included into new legal sector.

The history shows, that the developed society has arisen in the countries where migrants managed to be integrated into structures of a society and where the institutes have been created, given to everyone chance to participate in manufacture. There, where a source of success became manufacture of the goods necessary to the country and services, instead of the state privileges, progress, prosperity and, certainly, integration took place. In the countries where legal institutes have not reacted in any way to process of migration, significant prosperity it has not been reached, excitements accrued, there were flashes of violence.

To change legal institutes - a problem not from lungs. For this purpose it is necessary to define the heaviest and urgent problems of the country, to understand, what legal institutes most effectively open opportunities of the initiative and enterprise what - encourage the enterprise qualities necessary for creation of riches and what promote coordination of the efforts aimed at an effective utilization of resources.

In this connection внезаконная the system shows us, that first of all and most strongly Peruvians appreciate the reliable property rights, a legal protection of contracts and freedom of business. They wish to have auxiliary lawful tools which at them are not present now. Besides they want elimination whenever possible all stirring rules of law. At last, they wish to replace in many spheres of activity the state with the private organizations. Thus, the minimal program of integration of the

country will demand simplification and decentralization of the governmental bureaucracy and a final decontrol and деполитизации an economic life. We shall consider these positions.

### **Simplification**

We understand optimization of functioning of legal institutes as "simplification" due to elimination of duplicating and unnecessary laws. Simplification mentions not roots of mercantilist system, and only ' its some consequences.

Simplification demands, that we have revealed the most harmful norms of the right raising costs of legal and shadow sectors, including costs of access to them. Such costs conduct to растранижению resources, limit opportunities of legal sector to adapt for varying economic circumstances and interfere with full disclosing of opportunities теневиков.

This three problems touch also consumers which suffer from decrease in quality of the goods and services and from a rise in prices. Both that and another has the reason excessiveness of regulation and decrease in efficiency of the enterprises. The same problems touch workers and suppliers which incomes are reduced that their contribution to business is used less effectively.

Simplification means use of methods already well-known in the developed countries as "дебюрократизация". Replacement of the rules defining methods of achievement of definite purposes, the rules defining the purposes or standards Here enters. It facilitates burden of those who should submit to corresponding rules as at them the opportunity to search for more rational and effective methods of achievement of the standards set by the law opens. The red tape is reduced and more effective means of the control over observance of requirements of the law are provided.

Simplification also assumes measurement of capacity of again accepted laws, efficiency and which necessity are yet clear. Here the tool are so-called " rolled up laws ", that is such which action automatically stops after the certain term. Only if experience has shown utility of the law, its action renews.

To reduce quantity of the paper work made by the government, it is possible to coordinate programs of reduction бумагооборота to distribution of the budget - the less red tape, the it is more than budgetary funds. Other variant - to make bureaucratic activity of a vowel that public saw, on what laws or customs зиждется a writing practice, and, accordingly, put pressure in favour of exception of harmful and unnecessary administrative practice.

Generally simplification means decrease in costs without change of political system. When the Peruvian governments speak about reduction of bureaucracy, they

usually mean simplification. The governments are ready to change the law if it does not mention their powers.

### **Decentralization**

Under "decentralization" we mean transfer of the legislative and administrative responsibility from the central government to the local and regional governments to approach authorities to a real life and essential problems. It means granting to the local governments of the right to not coordinate with the center of the decision on all regional problems which cannot render negative influence on other part of the country.

Decentralization not is "деконцентрация", that often confuse. When the branch of agricultural bank opens in Пиуре, and the Constitutional court in Арекуипе, it - деконцентрация. Decentralization means transfer of a part of legislative and other rights to the local governments. Деконцентрация there is simply transfer of some functions from the center in a province.

Similarly to simplification, decentralization does not change bases of mercantilist system as arrangement between the governments and exclusive groups can take place both on local, and at a national level. Decentralization can play rather important auxiliary role in realization of changes as it allows the local governments to compete among themselves, and to the population - to estimate: who facilitates an economic life and who - is not present. The territory with the best laws will get advantage, and businessmen will settle there, and others will compete with it, that will lead to improvement of quality of lawmaking on all country.

Further, as *внезаконность* arises owing to lack of communication between governors and operated, transfer of the right of decision-making on a local level where the distance between them less, can improve a state of affairs. Moreover, the majority of the problems connected with *внезаконной* by activity, exist only at a local level.

Though some general laws are capable to resolve problems of a significant part of the population, the weight of questions can be discussed and solved effectively only at lower level. And, at last, decentralization of decisions facilitates *экспериментирование* and *нащупывание* approaches to the common decision.

Though transfer of powers was only partial and limited, delegation to the municipal governments in 1980 of the right to make of the decision on housing questions has reduced time of reception of corresponding documents and sanctions in a province Lima in 4 - 5 times.

### **Decontrol**

We understand growth of the responsibility and opportunities as "decontrol" for private persons and their narrowing for the state. As well as democratic lawmaking, a decontrol mentions the roots of mercantilism. The decontrol includes деполитизацию economy to protect the state from manipulations перераспределительных syndicates, and economy - from politicians, also as church there was was is separated from the state. Though all economic, religious and political systems are interdependent and form a basis of the social order, everyone requires a significant autonomy that nobody lived due to others.

It is necessary to release economy from political brokers, from an arbitrariness of legislators and parasitic interests. The political life, in turn, needs to be released from influence of economic power structures. Its efficiency and stability should be increased, having limited number of solved problems. We need the strong and effective state, and for this purpose it should leave details and details to private persons, and on itself to take creation of base conditions for development.

In practice the decontrol means the following. The control over execution of the economic legislation should be transferred from hands of the bureaucratic device to court. It is necessary to give access to the market to all and everyone. The state should be engaged only in what separate people cannot. And, at last, it is necessary to delegate to voluntary structures and associations the responsibility that they are capable to do better, than someone.

Performance of the first position would select at the state the right to limit or give access to manufacture. That would narrow an opportunity of the state to solve who can make and who - is not present what are necessary the goods and services, under what price and in what quantities. It will not lead to chaos. The decontrol would mean liberation of the state resources for maintenance of direct and effective game rules, for prevention of abusings by freedom. Overpopulation, insanitary conditions and a dirt, the disorder and absence of coordination, characteristic basically for внезаконной activity, show, attempts to operate manufacture directly are how much inefficient and it is how much more important to strengthen system внеконтрактной the responsibility to liquidate, correct or punish for adverse consequences of individual activity.

The popular, fast and effective system of justice is required to the state. It is necessary to refuse the administrative control of economy and to transfer in hands of judicial bodies the control over execution of rules and laws. Owing to it the state will depart from resource management and will concentrate on management of justice to guarantee observance of the law and to not leave unpunished any infringement. Experience of the developed countries shows, that it is much more reasonable to aim public efforts to creation of effective and fair system of judicial bodies which will provide законопослушность private persons - organizers of work of the productive device of the country, than to try to transform the state into the good businessman.

Bureaucrats, the inspector, clerks, economists, bookkeepers and other officials are necessary to the interventional state. Their number is reduced with simplification of laws as the system of judicial bodies normally functions at relative small number тяжущихся instead of when in suit huge weights of citizens are involved.

That is why so important to reform and expand judicial system, arbitration, system of world judges and in general all the institutes, capable to keep order without окостенелости, corruption and the squandering accompanying direct state intervention during an economic life.

The state should give also the legal tools facilitating economic development. It means such change of legal institutes which would make possession of the property universal and indisputable, and everyone could be assured of reception of lawful benefits from an investment of work or the capital.

We have seen, that market mechanisms work not quite smoothly and not so reliably. Means, it is necessary for state to stimulate people to joint activity, to association of work, ideas, capitals and resources, and to provide cooperation by mechanisms of the contract right. Business and contracts should become simple business, and results of transactions predicted for without it development of the effective market is impossible.

We believe, that the decontrol should include also delegation of functions and authorities that legal or внезаконным to private institutes which as we have seen, work today better, than the state. At corresponding powers they will cope with the decision of the certain problems better, than the state.

Having given to private persons, judicial system and внезаконным to the organizations the decision of these new problems, the state will have an opportunity to allocate more resources for study of problems, excessive to private persons and the organizations: on protection of natural resources and a public property, protection of national property, maintenance of personal safety of citizens, the control of monopolies, system of transport and formation, - i.e. on all what the private sector cannot make.

One of the basic duties of the state is redistribution of resources in favour of the poorest and less successful members of a society, that, however, it is not necessary to consider as the justification of privileges the little to the detriment of the rests. The desire that among many functions of the state there was also a function of redistribution is quite justified. The main thing that redistribution of resources in favour of requiring did not put damage to manufacture, employment and savings. If redistribution remains pretext still to break the property right, excessively to constrain opportunities of its use or to weaken guarantees of execution of contracts, in this case Peru remains слаборазвитой the country. Aspiring to cure a consequence of poverty in such a way, we only shall strengthen its deep reasons. Redistribution, hence, should accept such forms which do not destroy economic stimulus as it occurs in case of

redistribution of money through taxes. The clear aspiration to перераспределительной to validity should not harm to validity productive.

It is easy to see, that the purposes the same decontrols, as at policy of mercantilism, including the ground, work, the credit, formation, transport, safety and the help deprived. A difference that дерегулированное the state reaches these purposes, not substituting the market, and strengthening it. Hence, it is necessary to not eliminate внезаконную activity, and to integrate it, to legalize and encourage. To overcome private monopolies and олигополии, it is necessary to not replace with their state monopolies, and to open access to the market for all. Democratization of the credit demands encouragement of a competition between financiers, instead of nationalization of the credit and submission of authority of politicians and bureaucrats.

To put it briefly, all we, both in legal and in shadow sectors, require fair and effective laws, in elimination of an arbitrariness of the state.

### **The future институциональные problems**

The second way of adaptation of the right to the validity assumes change of procedures of acceptance of new laws to not repeat a mistake of the past.

Legislative procedures should oblige to prove the government arguing under each bill, that such law is necessary, that benefits from its acceptance more than possible costs. Otherwise in the future again it is necessary to address to a policy of simplification, a decontrol and decentralization. Lawmaking should be to vowels and be supervised by voters. It is necessary to publish projects of laws and to consider opinion of the public.

Unlike Peru, almost all the developed democracies anyhow supervise the governmental lawmaking. For us democracy is reduced to that each five years to select the new government which is received with carte blanche for all time of stay at authority and breaks off communications with us up to following elections. It transforms bad lawmaking - lawmaking without consultations of the population - into a series of surprises, that we and observe. In the country where agencies publish almost 99 % of all norms and rules, and parliament - only remained 1 %, hardly probable it is possible to be surprised to that legal system - in the best mercantilist traditions! - it is far from the validity and needs of the market and it is focused on service перераспределительных syndicates and централистского voluntarism.

The democratic system of lawmaking, on the contrary, can; to use norms and the positive practice, spontaneously generated both in legal, and in shadow sectors. As such system is capable to master gradually a fluid reality of a life, laws will express the order based not on speculative representations of the central government, and on needs and hopes of the Peruvian citizens. Other advantage of democratization of

lawmaking that it will be possible to use the knowledge disseminated in a society better. In the country where millions people cooperate with each other in billions ways and carry out thousand contracts where various cultures have closely intertwined, vital ways and the points of view, in this country outside of democratic procedures of lawmaking of authority cannot have access to the information necessary for formation of efficient rules and norms.

Let's tell it is more: so far as in the country there is a division of labour there is also a division of knowledge. Hence, it is more effective and оправданно to create laws on the basis of the knowledge disseminated in people, instead of on the basis of recommendations of groups of officials or their advisers. A source of spontaneously arising norms and rules is experience of all population and its judgement about possible consequences, instead of reasons of a narrow circle of persons. Democratic procedure of development of norms and rules strengthens positions of groups less organized and less influential, than перераспределительные syndicates. Publicity of lawmaking interferes with occurrence of amazing laws which redistribute means in favour of these syndicates. Unlike members перераспределительных syndicates, our population is diverse and is disseminated, so is more vulnerable. The democratic system could force to prove the government to a society necessity of the new law and to guarantee, that any group of the population will not live due to another. It would strengthen political influence of the public which, among other things, has most lost from mercantilist norms and rules. It also means, that governors constantly would bear the responsibility before public opinion, and not just each five years.

For democratization of legal system it is necessary to publish bills and to analyze their future possible benefits and costs. It will improve quality and will reduce quantity of mercantilist laws and rules.

### **The publication of bills**

It is necessary to publish projects of the laws mentioning an economic and social life that everyone whom they concern, could state the sights, present objections, formulate comments and offers. It will make possible mobilization of public opinion against laws and the rules complicating economic activities or directed on enrichment of certain groups.

The preliminary publication gives the state access to sights of a society in occasion of each bill. If legislators have prepared bad laws, reaction of public will show, that these laws are necessary for improving. Communication with public allows to democratize a control system as a whole. When such communication is not present, when bureaucracy - almost unique channel of reception of the information, - the government grows stiff.

### **The analysis in terms costs - benefits**

The publication of bills should be accompanied by the analysis of possible social and economic consequences in terms of costs and benefits. Statesmen are obliged to show, than their offer it is better than others. It is necessary, that discussion was beyond cleanly legal criteria and considered possible influence of these laws even on the third parties.

The requirement that the government supported each bill with the analysis of possible costs and benefits, will serve the decision at least three problems. First, begins possible to reveal and almost automatically to exclude the laws creating unnecessary obstacles. Secondly, as many mercantilist rules and laws have no basis inspiring trust, it will be difficult to prove utility of harmful ideas to the informed and vigilant society. Thirdly, there will be a mechanism of a cancelling of laws though and justified to some extent, but bringing there is more than harm, than advantage. Necessity of carrying out of the analysis for terms of costs and benefits can render disciplining influence on the government and to force it to reject imperfect bills before the publication. It would mean, that if a bill опубликован-for this purpose there are certain bases, and the interested groups will have an opportunity to confirm or deny opinion of the government.

All the methods of democratization of legal system described here answer criteria of policy of simplification, a decontrol and decentralization. Use of one method often promotes achievement at once the several purposes.

Undoubtedly, changes are necessary also to many other things. In many areas it is necessary to expand the responsibility of the state. It would be necessary to discuss and a degree of intervention of the state in various spheres of a life. Generally speaking, it is necessary to recognize, that in Peru the state intervention usually excessively and fatally. There are evidences of that the state blocks to the majority of the population access to lawful economic activities, that in any way does not promote economic progress, protection of the property and contracts or justice. At the best such intervention complicates a life all and to everyone. If we managed to realize offered measures, there would be conditions that the legal system became the positive factor of development of the country. Basis of laws would become the general norms of behaviour, and the legal system would receive ability to include spontaneously arising economic and social structures, strengthening that productive and adjusting opportunities of the population. With achievement of these purposes good laws will receive prevalence.

### **Final remarks**

The questions mentioned in the given book, are inexhaustible, and with the advent of new data the book should be copied. However we consider necessary to share with readers some basic conclusions made as a result of the first research внезаконной of the party of an economic life in Peru. We hope, that these

conclusions will serve as guiding marks in the future researches and the analysis, will promote the wide criticism and, probably, развенчанию some prejudices. In any case we hope, that they become the important starting point in forthcoming discussions.

We trust in amazing energy, an ingenuity and creative activity of the people occupying Peru. Stability of this people which has sustained centuries-old mercantilist oppression, is amazing. Its existence testifies to presence till now not used potential opportunities. We are convinced, that as soon as the role of the law will be recognized, it will be found out, that the true problem is not so much in shadow, how many in legal sector of economy.

There is almost unanimous opinion, that the country requires changes. We believe, that this transformation is already conducted by forces внезаконных and that our government should change the law and order process of transformations that people could peacefully and adapt to a new way of life more productively. Sooner or later supervision over shadow sector will show, that though reorganization of legal system and seems more simple problem, than carried out by the government radical ломка the social device of the country, actually it - much more important and far-reaching enterprise. In fact it is based on energy of all population and its ability to realize new opportunities of development.

We should learn to think of development of the country in terms of profits and losses. We shall find out, that the majority of losses arises in public sector and in перераспределительной to system to which us have forced to get used, and the profit is created by a competition of the private persons working in legal and внезаконных sectors. We should reject, at last, all the prejudices forcing some people to despise внезаконных and to consider, that racial and cultural qualities of our population " not as at others " and to it are not accessible to it-де of advantage of freedom and market economy. For many years these prejudices were used for discrimination redistribution of our poor Property in favour of the small interested groups.

As soon as we shall understand negative influence of our legal institutes, we shall manage to overcome закомплексованность before the developed countries. Many our disorders порождены an anachronism of institutes. Are assured, that if to interpret our history from this point of view, there will be an opportunity to be pulled out from a trap of the conservatism doing us with extraction of eloquent dictators. And we shall manage at last to transform history into the tool of progress which will help to find effective institutes and systems, worthy efforts and victims of our people.

We hope, that this research will help truly left to understand, that not only they are anxious by problems of poverty and famine, that each conscious person understands and divides their sincere sufferings. But the noble feeling of pity should be supported by effective actions on struggle against poverty, and transformation of class struggle into struggle for a popular initiative and business is an intellectual

problem, worthy the best people of our society. Leaders of the Peruvian right wing can play a significant role in the future if the new understanding of problems *внезаконности* will allow them to reject prejudices and to see problems of poor men and opportunities of rendering assistance to requiring classes.

In Peru division of a political spectrum on left and right often does not clear up, and blacks out an essence of things. If to reject rhetoric dividing them, it will appear the main thing, that in both camps win selectors of privileges, instead of those who creates riches and well-being. The conflict between mercantilism and market economy allows to explain a paradoxicality of that fact, that a significant part of our middle class are the convinced statesmen, and frequently with socialist orientation whereas simple people cost on positions of a private property and are united in the free, decentralized organizations. We are assured, that if right and left in the developed countries could understand correctly the validity of Peru, they unanimously would condemn our system. The first - for an inefficiency, the second - for injustice.

One of *пагубнейших* mistakes of our governors consisted that they cared of production costs, instead of about costs of realization of transactions. We are convinced, that it is the most important costs of the conclusion of contracts, and necessary to use legislative authority for removal of obstacles on a way to prosperity. And the care of production costs should be left to manufacturers, having supplied with their legal institutes which do a market competition by the tool of reduction of costs.

It is obvious to us, that a unique output from present crisis in Peru, way of the decision of problems of external debts and inflation is the economic growth which is not increasing deficiency of the balance of payments. The reasonable macroeconomic policy, and corresponding investments are necessary for this purpose also. However the most important element are the microeconomic measures encouraging and protecting the property rights, facilitating access to the business, giving to people necessary confidence of reliability of the savings, investments and manufactures. While the problems described in the given book, are not solved, any macroeconomic policy or external financing will be waste of efforts.

If any from our arguments are reasonable, we shall step into other way which will withdraw us from violence peculiar to mercantilism as a way of the answer to problems of poverty and wreck of hopes. On a new way we shall bring our institutes into accord with the validity both arising social and economic forces and we can connect our efforts to energy of huge weight of the Peruvians trusting not in class struggle, and in interchange and free cooperation.

In borders of Peru one country is concluded not. Here there is a mercantilist state which someone tries to reanimate by means of various political formulas and methods but which had already all attributes of inevitable death. Here there is one more country, - which people was disabused of an opportunity of the decision of the

problems and has got confused between the destructive purposes of terrorism and fruitless admonitions numerous прогрессистов. Here there is also a third country to which we have named " other way ", - the country where work much where people are susceptible to new and are competitive, and its largest province is, undoubtedly, the province of shadow economy.

This third country is alternative blasting and to criminal violence for replaces the energy spent in vain on protests and destruction, the energy directed on achievement of economic and social progress. Внелегалы prove it daily: they are always ready to enter dialogue, show prudence and readiness to serve to a society. The people movable by aspiration to progress and prosperity, will easily find to themselves a place in a lawful state. And those who is full of hatred and destructive energy, find a nutrient medium only there where are not capable to become stronger внелегалы, and mercantilist legality has already suffered defeat.

To leave from violence and poverty, it is necessary to recognize the property and work of people which the legal sector nowadays tears away, - that instead of revolt the spirit of cooperation and the responsibility was established. When people will feel taste to independence and will believe in fruitfulness of the efforts, they can believe in themselves and in economic freedom.

### **Epilogue**

Forty employees of Institute of freedom and democracy conduct researches and develop measures on the considered and resolute transformation of a mercantilist, elite society to the modern democratic nation.

Evolution of the developed countries of the West from mercantilism to their present systems was spontaneous, instead of the planned process. The majority of lawyers and economists of these countries at all do not represent value of their institutes in this evolution. Only studying shadow sector of Peru where, despite of absence of such institutes, there is relative economic freedom, we gradually send to understanding of their huge importance. The one who wishes to give the country chance to become a modern society, should direct efforts not only to liquidation of the certain conditions - obstacles in a way of access to legal activity, costs законопослушания, discrimination in the market of the capital, the state corporations, but also and on creation of base institutes which in the developed countries form a basis of efficiency, the social world and free cooperation.

Accordingly, in addition to projects of simplification, regulation, decentralization and democratization of lawmaking the Institute develops others институциональные the mechanisms necessary for liquidation of privileges in market sector and for democratization of a public life. We shall concern only some of these mechanisms.

Now, for example, we try to find effective ways of bridling of authority to limit abusings the government and перераспределительных syndicates and to create system at which people can protect the property rights and the interests stipulated by contracts. For this purpose, certainly, it is necessary to create институциональную environment which would guarantee evidence and clearness of actions of the government. People cannot protect themselves and in even smaller degree are capable to supervise the state without access to the information monopolized by this state. And in fact the market economy is possible only on condition that the information extends freely or at least is popular. In this connection we prepare for a legal basis which would guarantee an openness of the information on actions of the government, and we think of creation of effectively operating mechanisms of acquaintance with it. The press and bodies of judicial system should be strengthened so that they could trace carefully actions of the government and syndicates as the existing control of mass media - through credits from mainly state banks, supply by the information, distribution of advertising and, generally speaking, inclusion in a circle of addressees of advantages or exception of it - seriously undermines their independence. Rather small number of litigations against the state in Peru testifies, that public does not trust in independence of court.

To strengthen the property rights to the real estate and to improve system of the property rights in внезаконных settlements, we develop not state system of insurance associations and societies of mutual aid which should provide protection of the property rights and credits for investments into housing construction and into other activity. Our nearest plans include also development of ways of inclusion in judiciary practice внезаконных the arbitration courts that will allow inhabitants внезаконных to participate settlements in the sanction of affairs which now cannot be lead by judicial bodies.

In the field of a municipal transportation we prepare for laws and the rule, capable to provide appropriate functioning of the decentralized, competitive transport system consisting of the big number of owners of machines. Our analysis shows, that present problems of a municipal transportation are appreciably caused by that the existing legal system cannot deal with a lot of owners. The project will create a basis for the ordered participation of set of businessmen within the limits of legal system which will provide the following: management of traffic and the control over observance of the traffic regulation; standards of safety for vehicles; system of punishments for infringement of the rights of passengers and other users of transport; the clear information on the price of services; system of the stimulus based on private insurance; Special road and transport courts and control bodies for settlement of disputes and award of indemnifications for personal damage and damage of the property; a grid of road tariffs and taxes to finance all this and to give owners of machines of means for maintenance of a comprehensible degree of service.

It is easy to understand, that projects of Institute cover both the general and private questions - everything, that our budget allows. Though we also try to adhere to the uniform methodological approach, our strategy is aimed at development of solid and capable projects. As soon as work above them will end, we shall publish them in mass media and we shall bear for public discussion owing to which we shall check up and we shall specify our offers.

Similar, that it is time to begin discussion. There are no bases to wait, while long process (it is possible, painful and bloody) will deduce us on a way of industrial revolution and public welfare - to unknown destiny as it happens in the Europe. We already know, what institutes in Peru are efficient. As to the international experience there is quite enough information that is comprehensible and that it is necessary to adapt for our conditions. The institute does not see the reasons why Peruvians to not go in advance thought over by which will allow to overcome backwardness and to move forward to a modern society.

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