INDEX

Canada, eminent domain
just compensation rules, 165–6
subjective premium rates, 220
cancellations
development surplus and, 221–2
in Kim and Park’s model, 193–4, 195–6, 218, 262–3, 270–1
as post-taking irregularity, 191–3
Castle Coalition, 188–9
Central Land Tribunal (CLT), Korea, 292–5
cases reviewed by, 2009–2012 (figure), 293–5
number of cases, 2011 (appendix), 296
number of cases, 2012 (table), 293
structure of, 292–3
summary conclusion, 295
see also Korea, takings, disputes and resolutions
Cernea, M., 142
Chang, Yun-chien, 101, 103, 106, 216, 299
changes in project runners, as post-taking irregularity, 191–4, 195, 262–3
Charter of Fundamental Rights (CFR) direct expropriation under
Article 15: Right to engage in work, 90
Article 16: Freedom to conduct business, 90
Article 17: Right to property, 88–91
Article 52: Interpretation of ECHR Protocol 1, 89
scope of, 70–2, 76–7
Chen, Kong-Pin, 110
chieftain prerogatives, in Ghana, 129–30, 134–5, 149
China, eminent domain
Development Research Centre, 135
direct transfers of share of royalties, 142
group/collective land rights, 135
land acquisition and economic growth, 118
revenue enhancement and, 119
summary conclusion, 299–300
urban expansion and, 123–4
use of interest from revolving development funds, 142
valuation of agricultural land and compensation, 137
Clauretie, Terrence M., 216
Cohen, D.S., 15
Colombia, eminent domain
direct transfers of share of royalties, 142
community-driven development (CDD) projects, 148–9
community organizers for resident mobilization, 60
comparable sale approach, see Taiwan, and Land Appropriation Act (LEA)
compulsory land acquisition, in developing countries
introduction, 118–20
recent legal innovations, 120
defining credible limits on, 121–7
agricultural development and, 123
public purpose criteria and, 124–7
socio-economic development and, 124
urban expansion and, 123–4
when government fails to use taken land, 125
distribution of development surplus, 141–3
benefit sharing and, 142–3
due process in takings, 143–9
delegation/monitoring/ transparency, 147–8
independent grievance mechanisms, 145–6
participation and consultation, 144–5
timing of compensation, 146–7
voluntary transactions, 148–9
just compensation introduction, 127–8
challenges of, 128–9
INDEX

306

distribution of development (cont.)
electrical power allocation, 142
Epstein on bonus compensation and
(figure), 258–9
equity sharing, 142
land pooling/readjustment, 142–3
social welfare and, 252–3
see also Korea, distribution of
development surplus
distribution of development surplus
(Pillar 5), defined, 3
documentary evidence of rights, in
developing countries, 131–2
Douglas, William O., 44
due process in takings (Pillar 4),
defined, 3
see also compulsory land acquisition,
in developing countries;
European Convention on
Human Rights (ECHR); specific
countries
Eagle, Steven, 198
economic development rationale
critics of, 46–7, 122
in India, 125–7
O’Connor, on Takings Clause
prohibition of, 48–9
restrictive reform of US state
constitutions, 51–2
US public use concept and, 121–2
in Vietnam, 124
see also specific court decisions
economic development takings (EDT),
use of term, 253
economic surplus, see distribution of
development surplus; Korea,
distribution of development surplus
electrical power allocation, in
distribution of development surplus, 142
El Salvador, eminent domain
tax valuation and compensation, 138
eminent domain, overview
introduction, 1–2
chapter overview, 4–7
reform recommendations, 300–2
Six Pillars Framework, 2–3
summary conclusion, 297–302
Energy Charter Treaty (ECT), 72
Energy Industry Act (US), 184
Environmental Impact Assessment, in
India, 126
Epstein, Richard
on bonus compensation systems,
269, 272
on distribution of development
surplus (figure), 258–9
Epsteinian proportionality rule, 257–9
on fairness, 261
on subjective value in
compensation, 261
Tale of Two Pies principle, 183
Epsteinian proportionality rule, 257–9
equity sharing, in distribution of
development surplus, 142
escrow accounts, for
compensation, 147
Esposto, Alfredo G., 216
Ethiopia, eminent domain
agricultural development and, 123
grievance mechanisms, 146
monitoring of outcomes, 152
transfer of ‘unoccupied’ land, 148
Europe, legal protections and direct
expropriation
introduction, 67–8
direct expropriation
under CFR and common
traditions, 88–91
under ECHR, 77–88
European Convention on Human
Rights protections, 68–70
European Court of Human
Rights, 68–9
European Union protections
Charter of Fundamental
Rights, 70–2
common traditions of member
states, 70–2, 88–91
European Convention on Human
Rights, 70–2
foreign investors, 67–8, 72–4
international investment
agreements, 72–4

© in this web service Cambridge University Press
www.cambridge.org
summary conclusion, 91–2
venues for redress and applicable law, 74–7
European Convention on Human Rights (ECHR)
 amendment protocols, 70
 Protocol 1 (1952), 70, 77
 Article 6(1), 88
direct expropriation, 77–88
 alien property holders, 83–4
due process and dispute resolution, 87–8
just compensation, 83–7
nationalization of companies, 85–6
public interest criteria, 80–3
scope of protection, 79–80
three rules of interference with property rights, 78
protection for CoE member states, 67–72, 84
as venue for redress, 74–7
European Court of Human Rights (ECHR)
on direct expropriation and fair balance, 78, 84–6, 87, 88
on just compensation, 83–7
damage awards, 86
property rights jurisprudence, 71–2, 75, 79–80
scope of, 68–9, 72, 74–7
see also specific cases
European Court of Justice (ECJ)
on deprivation of possessions, 89
on direct expropriation criteria, 90–1
property rights jurisprudence, 71–2
scope of, 74–7
European Union (EU), protection for member states, 70–2, 88–91
see also specific countries
excessive taking, 190
fair market value
in just compensation in development countries, 136–8
USSC on, 53–4
see also specific countries

fairness
Epstein on, 261
fair balance under ECHR, 78, 84–6, 87, 88
in Pareto Efficiency, 158–9
use of term, 208
see also Korea, just compensation and fairness; specific countries
Fennell, Lee Anne, 261, 269
Fischel, William A., 219, 261
food security assessment, in India, 126
Forgey, Fred, 185
49 Acts permitting private takings, in Korea (appendix), 200–3
France, eminent domain appeals to Cour de Cassation, 245
due process in taking law, 245
free rider position, 14
Gain-based Compensation, 259
General Motors, 46–7
Germany, economic perspective on eminent domain
comparison to US, 28, 31
compensation, in comparison to civil liability damage award, 10–14, 25
market value as standard, 13
direct private taking, 184
distribution of development surplus, 23–5
Bavarian Taking Law, 24–5
Federal Construction Law, 24–5
due process in taking law, 244–5
participation in planning decisions, 33
preliminary injunctive relief, 32
temporary possession, 33–4
ensuring takings in public interest
constitutional rules, 12–13, 29
necessity condition, 28–9
public interest criterion, 186
requirement of linkage between compensation and, 29–30
specification of rationale in federal/state law, 26–8
summary conclusion, 31–2

Cambridge University Press
978-1-107-17729-1 – Eminent Domain
Edited by Iljoong Kim, Hojun Lee, Ilya Somin
Index
More Information

© in this web service Cambridge University Press
www.cambridge.org
INDEX

Germany, economic perspective (cont.)

takings in favor of private persons, 30–1

fairness issues in public interest takings

consequences of taking and regulatory taking, 22–3

full compensation and unequal treatment, 21–2

taking and prior subsidies, 22

winners and losers from takings, 20–1

incentive effects of full compensation

investor decisions prior to condemnation, 18–20

level of damage and lack of foreseeable state incentives, 14–16

suffer injustice and cash in problem, 16–17, 20

when profit maximizing firm as new owner, 17–18

market and planned economies, 8–10

scope of public-private taking, 186

summary conclusion, 34–7, 299

see also specific cases

Ghana, eminent domain

chieftain prerogatives and, 129–30, 134–5, 149

customary land regime in, 134–5

government failure to use taken land, 125

rural unregistered land, 129–30

timing of compensation, 146

Gillette, Clayton P., 262

Ginsburg, T., 9–10

golden handshake, 18

group/collective land ownership, 134–5

Guatemala, eminent domain

tax valuation and compensation, 138

Hamilton, Alexander, 41

Handler, Joel F., 157–8

_Hawaii Housing Authority v. Midkiff (1984) (USSC), 45

hedonic regression models, in Taiwan, 111

Heller, Michael, 60

_Henrich v. France_ (1994) (ECHR), 87

Hermalin, Benjamin E., 219

Hicks, John, 158–9

Hills, Roderick, 60

holdout position

Calabresi-Melamed proposition on, 14

_Kelo_ decision impact on, 51–2

means vs. ends public interest approach and, 157

in private takings, 188

see also Korea, public interest criteria

Hull formula, 11–12, 72

ICSID Convention (Washington Convention), 73–4

independent grievance mechanisms, in large-scale resettlement, 145–6

India, eminent domain

economic development rationale, 125–7

just compensation rules, 165–6

public purpose criteria, 124–5

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act (LARR), 125–7, 140

demonstration of local consent, 151

displacement and affected families, 136, 140

Environmental Impact Assessment, 126

food security assessment, 126

market value and compensation, 138

Social Impact Assessment, 126

subjective premium rates, 220

transfer of land to private industrial use, 148

Indiana, eminent domain

just compensation rules, 165–6

subjective premium rates, 220

Indian Supreme Court, on economic development rationale, 126
INDEX

Industrial Location and Development Act (Korea), 181, 270
Innovation City Construction Project, Korea, 225
Institute for Justice, 47–8, 186
International Investment Agreements (IIAs), 67–8, 72–4, 83–4, 91
involuntary transactions theory, 14
James and others v. UK (1986) (ECtHR), 80–3, 84
Japan, eminent domain
due process in taking law, 245–6
Land Takings Act, 184–5, 234, 236, 245–6, 251
prohibition of direct private taking, 184–5, 186
scope of public-private taking, 185–6
just compensation (Pillar 3), defined, 3
see also European Convention on Human Rights (ECHR); specific countries
Kaldor, Nicholas, 158–9
Kaldor-Hicks Efficiency, 158–9, 164–5, 170
Kanner, Gideon, 193
Kansas, eminent domain
bonus compensation systems, 258–9, 272
just compensation rules, 165–6
Kelo, Susette, 58–9
backlash against, 1, 38, 177
on benefits to community, 187
bonus compensation systems in states following, 272
cost of resistance to, 58–9
dissenting opinions, 121–2
fiscal illusion argument and, 17
German constitutional perspective on, 28, 31
integrated development planning and, 57
New London Development Corporation, 61
as public-private taking, 177, 185
renewed debate over public use, 47–53
strengthening of public use test, post-decision, 186
Kennedy, Anthony, 49, 54–5
Kenya, eminent domain
just compensation for occupants in good faith of land, 136
public purpose criteria, 124–5
Kerekes, Carrie, 188–9
Kim, Hyung-Tai, 225
Kim, Iljoong
on public-private takings, 254–5
Kim, Jae-Hoon, 172
Kim, J. (justice), 182–3, 199–200
Klass, Alexandra, 61
Kokott, Juliane, 76–7
Komesar, Neil K., 157–8
Korea, distribution of development surplus
introduction, 252–3 alternative land compensation, 263
annual compensation appeals, 263
distribution criteria and Epsteinian proportionality rule, 257–9
distribution standard as Pareto Criterion, 259–60
Restitution of Development Surplus, 259–60
economic perspectives on distribution and efficiency, 269–71
distribution to landowners for fairness and efficiency, 260–4
game structure in eminent domain (figure), 264
theoretical model in distribution for landowners, 264–9
theoretical model proofs (appendix), 273
Urban Development Act and, 270
overview on creation of development surplus, 255–7
compensation and, 255
S-shaped value-size curve, 256

© in this web service Cambridge University Press www.cambridge.org
Korea, distribution of dev. (cont.)
takings procedures, 256
overview on economic development
takings (EDT), 253–5
summary conclusion, 271–2
Korea, due process in takings
introduction, 230–1
categories of public projects
(figure), 234
constitutional provisions, 250
critical perspectives on
possible constitutionally
unjustifiable takings, 247–8
possible encouragement of
opportunism by project
runners, 249
possible evasion of verification of
public interest, 248–9
cross-country comparisons, 244–7
function of taking decision, 242–3
Ministry of Land, Infrastructure, and
Transport (MOLIT), 235, 251
nominal procedure for bargain
purchase, 232
Permission of a Public Project
legal effect, 236
process of, 235–6
verification of public interest,
233–5
phases of compulsory purchase,
232–3
process of taking decisions, 231,
243–4
Quasi-Permission of a Public Project
Constitutional Court on, 241–2
meaning, 236–40
regulation format, 240
status of current legislation and,
240–1
role of Land Tribunals, 233, 235,
242–4
summary conclusion and policy
prescription
emergence from radical
dualism, 250
institutional escape from
opportunism by project
runners, 251

phase-out of Quasi-Permission of
a Public Project, 250–1
takings process (figure), 231
Korea, eminent domain power and
private takings
introduction, 177–9
Acts that allow private takings and
public projects (appendix), 200–3
availability of takings/private
takings, 179–81
Constitutional Court decisions,
181–3
dissent of J. Kim, 182–3
direct private taking (DPT), 255
cross-country comparisons, 184–5
empirical investigation (Kim and
Park), 178
data and model, 193–4
estimation results, 195–6
interpretation of estimation
results, 180, 181, 196–7, 262–4,
270–1
impacts of Industrial Location and
Development Act, 181
impacts of National Land Planning
and Utilization Act, 181
KLTC provisions and, 178, 179–80
Quasi-Permission of a Public
Project, 179–80, 181, 198
merits of private takings, 187–9
plausible inefficiency in Non-
Coasian world, 189–93
condemners’ opportunism, 190–3
excessive taking, 190
post-taking irregularities, 191–3
socially inefficient choice of
land, 189
public-private taking (PPT), cross-
country comparisons, 185–6,
254–5
summary conclusion, 197–200
Korea, just compensation and fairness
introduction, 208–9
ALP standard, 213–17, 223–7
assessment of land price, 223–7
Land Appraisal Standard, 224–7
land appraisers, 223–4
compensation principles, 214
Land Tribunals and, 214, 225
conflicts of interest and, 211–12
constitutional provisions, 209–11
granting of subjective premium, 219–22
cross-country comparisons, 220
exclusion of development surplus principle and, 221–2
history of compensation system, 212–14
modifications, 1960s to present (table), 213
market value compensation principle, 214–17
history of assessment standards (table), 215
social cost as demoralization cost, 217–19
appeals and lawsuits, 218
fire damage of National Treasure No. 1 building as protest, 219
Korea, public interest criteria conditions for use of eminent domain, 164–6
publicness concept, 166
cons of public interest scrutiny (figure), 175
constitutional provisions, 156
KLTC provisions and, 167–70
Quasi-Permission of a Public Project, 186
literature review, 157–9
efficiency and equity, 157–8
Kaldor-Hicks Efficiency, 158–9, 164–5
means vs. ends approach, 157
Pareto Efficiency, 158–9
Ministry of Land, Infrastructure, and Transport (MOLIT), 167–70
National Financial Act (KNFA), 170, 172
100 Taking Acts by project type (figure), 168
Preliminary Feasibility Study (PFS), 170–3
Balanced Regional Development Analysis, 171
Economic Analysis, 170
Policy Analysis, 170–1
political impact of budgetary decisions, 172
use of AHP methodology, 171
Quasi-Permission of a Public Project, 168–9
Reassessment Study of Feasibility (RSF), 172–3
scrutiny in Permission of a Public Project stage, 167–70
comparison of permissions vs. decisions of taking (table), 169–70
summary conclusion, 173–5
theoretical economic approach, 159–64
proofs (appendix), 175
Korea, takings, disputes and resolutions introduction, 276–7
compulsory purchase appeals, 289–91
increased number of, 291–2
to Land Tribunals and courts, 291
number of cases (figure), 291
compulsory purchase disputes, 287–92
determining factors of, 287–9
growth in compulsory purchase by procedure (table), 287
ratio of total appeals (figure), 292
share of land taken (figure), 289
history and process of, 277–8
illustration (figure), 277
origins of disputes, 278–87
time series of, 278–87
size of condemned land and compensation, 279–83
summary conclusion, 286–7
usage of condemned land, 283–6
role of Central Land Tribunal (CLT), 292–5
cases reviewed by, 2009–2012 (figure), 293–5
number of cases, 2011 (appendix), 296
number of cases, 2012 (table), 293
structure of, 292–3
summary conclusion, 295
summary conclusion, 295
## Index

<p>| Korea Development Institute (KDI) Public and Private Infrastructure Investment Management Center (PIMAC) Preliminary Feasibility Study (PFS), 170–3 |  |
| Shifting the Paradigm for Sustainable Development: Eminent Domain and Property Rights conference (2015), 3 |  |
| Korea Land and Housing Corporation, 283 |  |
| see also specific provisions |  |
| Korean Law Information Center (website), 180 |  |
| Korean Laws (website), 240 |  |
| Kowal, Tim, 259 |  |
| Krier, James, 55, 259, 263, 269, 272 |  |
| Kuhn, William, 216 |  |
| Land Appropriation Act (LEA), see Taiwan, and Land Appropriation Act (LEA) land assembly districts, 60 land-for-land vs. cash compensation, 138–9 land pooling/readjustment, in distribution of development surplus, 142–3 Lands Acquisition Act (Australia), 184–5 |  |
| Land Takings Act (Japan), 184–5, 234, 236, 245–6, 251 |  |
| Lueck, Dean, 157 |  |
| National Alliance of Squatters and Evictees (Korea), 219 |  |
| National Financial Act (KNFA) (Korea), 170, 172 |  |</p>
<table>
<thead>
<tr>
<th>Index</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nationalization of companies, under ECHR, 85–6</td>
<td></td>
</tr>
<tr>
<td>National Land Planning and Utilization Act (Korea), 181</td>
<td></td>
</tr>
<tr>
<td>Nepal, eminent domain</td>
<td></td>
</tr>
<tr>
<td>cash compensation for involuntary resettlement, 140</td>
<td></td>
</tr>
<tr>
<td>New Jersey, eminent domain</td>
<td>62–3</td>
</tr>
<tr>
<td>New London Development Corporation, 61</td>
<td></td>
</tr>
<tr>
<td>see also Kelo v. City of New London (2005) (USSC)</td>
<td></td>
</tr>
<tr>
<td>New York, eminent domain</td>
<td>62–3</td>
</tr>
<tr>
<td>Nigeria, eminent domain</td>
<td></td>
</tr>
<tr>
<td>government failure to use taken land, 125</td>
<td></td>
</tr>
<tr>
<td>Land Use and Allocation Committee, 145–6</td>
<td></td>
</tr>
<tr>
<td>99 Cents Only Stores v. Lancaster Redevelopment Agency (C.D. Cal. 2001), 59</td>
<td></td>
</tr>
<tr>
<td>non-financial damages</td>
<td></td>
</tr>
<tr>
<td>cross-country comparisons</td>
<td>11</td>
</tr>
<tr>
<td>subjective value of business/organizational owned properties, 54</td>
<td></td>
</tr>
<tr>
<td>subjective value of individual properties, 53–5</td>
<td></td>
</tr>
<tr>
<td>Nosal, Ed., 219, 261</td>
<td></td>
</tr>
<tr>
<td>Oao Neftyanaya Kompaniya Yokus v. Russia (2014) (ECtHR), 86</td>
<td></td>
</tr>
<tr>
<td>O’Connor, Sandra Day</td>
<td></td>
</tr>
<tr>
<td>Kelo dissent, 121–2</td>
<td></td>
</tr>
<tr>
<td>reverse Robin Hood fashion argument, 183</td>
<td></td>
</tr>
<tr>
<td>on Takings Clause prohibitions, 48–9</td>
<td></td>
</tr>
<tr>
<td>officially assessed land price (ALP), in Korea, 213–17, 223–7</td>
<td></td>
</tr>
<tr>
<td>100 Taking Acts, in Korea</td>
<td></td>
</tr>
<tr>
<td>49 Acts permitting private takings (appendix), 200–3</td>
<td></td>
</tr>
<tr>
<td>permitting takings under, 239–41, 254</td>
<td></td>
</tr>
<tr>
<td>by project type (figure), 168</td>
<td></td>
</tr>
<tr>
<td>opportunism, see condemners’ opportunism, in Korea</td>
<td></td>
</tr>
<tr>
<td>ordinary least square model with robust standard errors, 111–14</td>
<td></td>
</tr>
<tr>
<td>Pakistan, eminent domain</td>
<td></td>
</tr>
<tr>
<td>subjective premium rates, 220</td>
<td></td>
</tr>
<tr>
<td>Pareto, Vilfredo, 158–9</td>
<td></td>
</tr>
<tr>
<td>Pareto Efficiency, 158–9, 257, 259–60</td>
<td></td>
</tr>
<tr>
<td>Park, Sungkyu</td>
<td></td>
</tr>
<tr>
<td>on public-private takings, 254–5</td>
<td></td>
</tr>
<tr>
<td>Paterson, William, 1</td>
<td></td>
</tr>
<tr>
<td>Permission of a Public Project, in Korea under KLTC, 167–70, 179–80</td>
<td></td>
</tr>
<tr>
<td>legal effect, 236</td>
<td></td>
</tr>
<tr>
<td>process of, 235–6</td>
<td></td>
</tr>
<tr>
<td>scrutiny in stage of, 167–70</td>
<td></td>
</tr>
<tr>
<td>verification of public interest, 233–5</td>
<td></td>
</tr>
<tr>
<td>Peru, eminent domain</td>
<td>122–3</td>
</tr>
<tr>
<td>Pfizer, Inc., 47</td>
<td></td>
</tr>
<tr>
<td>Philippines, eminent domain</td>
<td></td>
</tr>
<tr>
<td>self-declaration of land value and compensation, 138</td>
<td></td>
</tr>
<tr>
<td>timing of compensation, 147</td>
<td></td>
</tr>
<tr>
<td>possessions, under ECHR, 79–80</td>
<td></td>
</tr>
<tr>
<td>Potential Pareto Efficiency, see Kaldor-Hicks Efficiency</td>
<td></td>
</tr>
<tr>
<td>preliminary injunctive relief, in Germany, 32</td>
<td></td>
</tr>
<tr>
<td>Principle of Prohibiting the Condemnee from Sharing in the Development Surplus (KLTC), 259–60</td>
<td></td>
</tr>
<tr>
<td>Pritchett, Wendell, 44–5</td>
<td></td>
</tr>
<tr>
<td>proportionality principle, in German administrative and constitutional law, 28</td>
<td></td>
</tr>
<tr>
<td>public interest criteria for takings (Pillar 1), defined, 3</td>
<td></td>
</tr>
<tr>
<td>see also European Convention on Human Rights (ECHR); specific countries</td>
<td></td>
</tr>
</tbody>
</table>

© in this web service Cambridge University Press
publicness concept, in Korea, 166, 171–2, 199–200
public-private taking (PPT), cross-country comparisons, 185–6, 254–5
public use vs. public purpose, 121–2

Quasi-Permission of a Public Project, in Korea
Constitutional Court on, 241–2
under KLTC, 179–80, 181, 186, 198
phase-out of projects under, 250–1
public interest criteria and, 168–9, 186
“quick take” condemnations, 57

Rawl’s difference principle, 257–8
registered property only principle, 129–32
rent seeking, 15–16, 211–12, 262–4
replacement cost, 137
resettlement and rehabilitation, 135–6, 139–40, 145–6
see also World Bank; specific countries
Restitutionary Compensation, 259
reverse Robin Hood fashion argument, 183

Right to Fair Compensation and Transparency in Land
Acquisition, Rehabilitation and Resettlement Act (LARR), see India, eminent domain

Rwanda, eminent domain
documentary evidence of rights, 132
Ryan, James L., 183

Schäfer, Hans Bernd, 299
Schwer, Keith R., 216
Segerson, Kathleen, 219, 261
Senegal, eminent domain
agricultural development and, 123
sentimental value, 17–18
see also non-financial damages
Serkin, Christopher, 55, 259, 263, 269, 272
Shapiro, Perry, 219
Six Pillars Framework, 2–3

Social Impact Assessment, in India, 126
socially inefficient choice of land, 189
social welfare
development surplus and, 252–3
economic criterion and, 158–9
in Kim and Park’s model, 264–9
subjective premium and, 219
see also compulsory land acquisition, in developing countries; specific countries

socio-economic development, in Vietnam, 124
Somin, Ilya, 17, 28, 190–1, 198, 299
Souter, David, 54–5
Special Act on Enterprise City Development (Korea), 271–2
speculative takings (Cooney), 190
Sporrong and Lännroth v. Sweden (1982) (ECtHR), 87
squatter settlements, and just compensation, 135–6
squeeze out rules, 14
S-shaped value-size curve, 256
Staley, Samuel, 198
Stevens, John Paul, 59, 63, 187
subjective premium
cross-country comparisons, 220
in Korea, 219–22
subjective value, see non-financial damages
subject of takings (Pillar 2), defined, 3
see also specific countries
sub-Saharan Africa, eminent domain
rural unregistered land, 129–30
see also specific countries

SungKyunKwan University, Dept. of Economics Working Paper,
see Kim, Iljoong; Park, Sungkyu

Supreme Court of Korea
on abuse of eminent domain, 250
on compulsory purchase, 233, 248
on phases of compulsory purchase, 233

Supreme Court of Ohio, rulings on eminent domain, 43
Taiwan, and Land Appropriation Act (LEA)  
United States, eminent domain (cont.)

- comparison to Germany, 28, 31
- debate over public use, 40–53
- broad vs. narrow views of, 41–3
- impact of *Berman* decision, 44–5, 48–9
- impact of *Kelo* decision, 47–53
- triumph of broad view, 44–7
- direct private taking, 184, 188–9
- Energy Industry Act, 184
- expansion of public use requirement, 254
- impact of federalism, 62–4
- just compensation, 53–7
- procedural constraints on takings, 57–62
- Progressive movement and, 43
- public interest criterion, 186
- public-private takings, 177
- scope of public-private taking, 185, 186
- state bonus compensation systems, 272

- state just compensation rules, 165–6
- state subjective premium rates, 220
- statutory easement, 101
- summary conclusion, 64–6, 297–302
- see also US Supreme Court (USSC);
  specific states and state courts
- Urban Development Act (Korea), 270
- urban expansion, 123–4

US Constitution

- Fifth Amendment, 44, 62
  - just compensation, 53–4
  - public use in Takings Clause, 38, 40–1, 121–2, 177
- Fourteenth Amendment, 42–3, 44

US Supreme Court (USSC)

- on conceivable public purpose, 187
  - diversity and minimal restrictions, 63
  - on easements of necessity, 101
  - on fair market value, 53–4
  - on public use concept, 121
  - shift to broad view of public use, 44–5
  - see also specific cases; specific justices

Vietnam, eminent domain

- economic development rationale, 124
- provincial land governance index, 152
- revenue enhancement and, 119
- World Bank Land Governance Assessment Framework on private takings, 124

Voluntary Guidelines for Governance of Tenure (VGGT), 119–20

voluntary transactions, 148–9

weak rule of law, 129

Weisbrod, Burton A., 157–8

West Bengal, eminent domain

- lack of updated land records, 150
- Williams, Matthew C., 259

World Bank

- on compensation for involuntary resettlement in Nepal, 140
- on development-induced displacement, 118–19
- Ghana Commercial Agriculture Project, 125
- on just compensation in rural China, 135

Land Governance Assessment Framework, in Vietnam, 124

- on land registration practices in Albania, 130–1
- on land taking frameworks, 119–20
- Operational Policy on Involuntary Resettlement, 128–9, 139, 142, 147
- on replacement cost, 137

Wyman, Katrina, 261, 262

Yukos case, see *Oao Neftyanaya Kompaniya Yukos v. Russia* (2014) (ECtHR)

Zambia, eminent domain

- transfer of 'unoccupied' land, 148