

INDEX

- Act on Balanced Regional Development and Support for Local Small and Medium Enterprises (Korea), 199–200
- adjustment ratios, in Taiwan, 105–6
- Administrative Gazette*, 198
- adverse selection (Somin), 190–1
- Africa, *see* sub-Saharan Africa, eminent domain; *specific countries*
- agricultural development
- credible limits on takings, in developing countries, 123
 - just compensation, in Taiwan, 102–3
 - as public purpose, in Ethiopia/Senegal/Tanzania, 123
 - valuation of agricultural land and compensation, in China, 137
- World Bank Ghana Commercial Agriculture Project, 125
- Airbus Corporation, 27
- Albania, eminent domain
- land registration practices, 130–1
 - land valuation and compensation, 137
- Alexander, Gregory, 2
- alien property holders, under ECHR, 83–4
- Alliance Spring Co. Ltd. and Others v. the First Secretary of State* (2005) (EWHC), 185
- Anheuser Busch Inc. v. Portugal* (2007) (ECtHR), 79–80
- auctions, 119, 143, 188, 191–3
- Australia, eminent domain
- just compensation rules, 165–6
 - Lands Acquisition Act, 184–5
 - prohibition of direct private taking, 186
 - scope of direct private taking, 184–5
 - scope of public-private taking, 185–6
 - subjective premium rates, 220
- Averch-Johnson effect, 190
- Becher, Debbie, 60
- Bell, Abraham, 101, 188, 254–5
- benefit sharing, in distribution of development surplus, 142–3
- Berman v. Parker* (1954) (USSC), 44–5, 48–9, 121, 187
- Bilateral Investment Agreements (BITs), 67–8, 72–4
- blight condemnation, in US, 46–7, 48–9, 52
- bonus compensation systems, 258–9, 269, 272
- see also* subjective premium
- Bosphorus Hava Yollari Turizm ve Ticaret Anonim Sirketi v. Ireland* (2005) (ECtHR), 75
- Boukaert, Boudewijn, 177
- Boxberg case* (1985) (BVerg), 185
- Brazil, eminent domain
- direct transfers of share of royalties, 142
 - Ministry of Cities Ordinance on housing of displaced persons, 136, 140
 - reinvestment in resettlement areas, 142
 - use of interest from revolving development funds, 142
- Breyer, Stephen, 54–5
- Burrows, Paul, 219
- Calabresi, G., 14
- California, eminent domain
- dualistic takings process, 244
- Calvo doctrine, 83–4

- 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
 City of New London, *see Kelo v. City of
 New London* (2005) (USSC)
 Claurette, 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
 challenges in, 120
 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

- just compensation, identification of
 interest holders, 129–36
 documentary evidence of rights,
 131–2
 group/collective land rights, 134–5
 informal/illegal occupation and,
 135–6
 multiple and customary rights,
 132–4
 registered property only principle,
 129–32
 weak rule of law and, 129
 just compensation, identification of
 quantum and type of, 136–40
 assessment of fair market value of
 lost assets, 136–8
 land-for-land vs. cash, 138–9
 livelihood restoration/
 enhancement, 139–40
 reform recommendations, 149–52
 documentation and transparency,
 151–2
 increased availability of up to date
 land records, 150–1
 possibilities for redress, 152
 for voluntary market-based land
 transfers, 151
see also specific countries
 condemners' opportunism, in Korea,
 190–3, 249, 251
 Connecticut State Supreme Court,
 rulings on eminent
 domain, 47–8
 Constitutional Court of Korea
 on distribution standard, 259
 on eminent domain power, 210
 on private takings, 178, 180, 181–3,
 199–200
 Quasi-Permission of a Public
 Project, 241–2
see also specific justices
 Convention on the Recognition and
 Enforcement of Foreign
 Arbitral Awards (New York
 Convention), 73–4
 Cooney, Kevin, 190
 co-ownership, in distribution of
 development surplus, 142
 Council of Europe (CoE), 67–70, 74–7
see also European Convention on
 Human Rights (ECHR)
 Croatia, eminent domain
 public purpose criteria, 124–5
 customary land regimes, in developing
 countries, 132–4
 Cypher, Matthew, 185
 De Geest, Gerrit, 177
 demoralization cost, defined, 218
 Dery, Wilhelmina, 53–4
 developing countries, *see* compulsory
 land acquisition, in developing
 countries; *specific countries*
 development economics
 Myrdal on, 9
 shift of, 9
 differential method of damage
 compensation, 10–12
 direct private taking (DPT), cross-
 country comparisons, 184–5
see also Europe, legal protections and
 direct expropriation; *specific
 countries*
 displacement
 of poor/minorities in US, 45,
 46–7, 56
 resettlement of informal settlements,
 135–6
 system bias and, 56
 World Bank on, 118–19, 128–9, 139,
 142, 147
 dispute resolution system (Pillar 6),
 defined, 3
see also European Convention on
 Human Rights (ECHR); Korea,
 takings, disputes and
 resolutions; Taiwan, and Land
 Appropriation Act (LEA)
 distribution of development surplus
 introduction, 252–3
 benefit sharing in developing
 countries, 142–3
 cancellations, 221–2
 co-ownership, 142
 in developing countries, 141–3
 economic development takings, 253–5

- 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
- Esposito, 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

- 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 (ECtHR)
 - 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

- 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
- Hentrich v. France* (1994) (ECtHR), 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

- 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
- Kelo v. City of New London* (2005) (USSC)
 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
Are Private Takings Efficient? An Empirical Investigation, 178, 180, 181, 193–4, 195–7, 262–4, 270–1
 on public-private takings, 254–5
- Kim, Jaehoon, 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

- 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
 - 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

- 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
- Korea Land Takings and
 Compensation Act (KLTC)
 categories of public projects, 233–4
 compensation principles, 214
 Land Appraisal Standard, 224–7
 Permission of a Public Project,
 167–70, 179–80
 permits takings under 100 individual
 Acts, 239–41, 254
 Principle of Prohibiting the
 Condemnee from Sharing in the
 Development Surplus, 259–60
 Quasi-Permission of a Public
 Project, 186
 scope of, 178
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
- Lanza, Steven, 188–9
- Latin America, Calvo doctrine, 83–4
- Leasehold Reform Act (1967)
 (UK), 80–3
- Lee, Hojun, 172, 221, 225, 261, 299
- Leo Sheep Co. v. United States* (1979)
 (USSC), 101
- Lewis, John, 43
- livelihood restoration/enhancement,
 139–40
- Lueck, Dean, 157
- Madagascar, eminent domain
 land value and compensation, 138
- Madison, James, 41
- Malawi, eminent domain
 grievance mechanisms, 146
 timing of compensation, 146–7
- Melamed, A.D., 14
- Mercedes Company, 27
- Merrill, Thomas W., 55, 157, 257–8,
 259, 261, 269
- Mexico, eminent domain
 grievance mechanisms, 146
 Procuraduria Agraria, 152
 tax valuation and compensation, 138
- Miceli, Thomas J., 15–16, 157, 188,
 219, 261
- Michigan, eminent domain
 bonus compensation systems,
 258–9, 272
 just compensation rules, 165–6
 subjective premium rates, 220
- Michigan Supreme Court, rulings on
 eminent domain, 46–7, 183
- Mill Act cases (USSC), 42, 184
- Modi, Narendra, 127
- moral hazard, 191, 263–4
- Mozambique, eminent domain
 rural unregistered land, 129–30
 transfer of ‘unoccupied’ land, 148
- Munch, Patricia, 216
- Myrdal, Gunnar, 9
- National Alliance of Squatters and
 Evictees (Korea), 219
- National Financial Act (KNFA)
 (Korea), 170, 172

- nationalization of companies, under
 ECHR, 85–6
- National Land Planning and Utilization
 Act (Korea), 181
- Nepal, eminent domain
 cash compensation for involuntary
 resettlement, 140
- New Jersey, eminent domain,
 62–3
- New London Development
 Corporation, 61
see also Kelo v. City of New London
 (2005) (USSC)
- New York, eminent domain, 62–3
- Nigeria, eminent domain
 government failure to use taken
 land, 125
 Land Use and Allocation Committee,
 145–6
- 99 Cents Only Stores v. Lancaster*
Redevelopment Agency (C.D.
 Cal. 2001), 59
- non-financial damages
 cross-country comparisons, 11
 subjective value of business/
 organizational owned
 properties, 54
 subjective value of individual
 properties, 53–5
- Nosal, Ed., 219, 261
- Oao Neftyanaya Kompaniya*
Yukos v. Russia (2014)
 (ECtHR), 86
- O'Connor, Sandra Day
Kelo dissent, 121–2
 reverse Robin Hood fashion
 argument, 183
 on Takings Clause prohibitions,
 48–9
- officially assessed land price (ALP), in
 Korea, 213–17, 223–7
- 100 Taking Acts, in Korea
 49 Acts permitting private takings
 (appendix), 200–3
 permitting takings under,
 239–41, 254
 by project type (figure),
 168
- opportunism, *see* condemners'
 opportunism, in Korea
- ordinary least square model with
 robust standard errors, 111–14
- Pakistan, eminent domain
 subjective premium rates, 220
- Pareto, Vilfredo, 158–9
- Pareto Efficiency, 158–9, 257, 259–60
- Park, Sungkyu
Are Private Takings Efficient?
An Empirical Investigation, 178,
 180, 181, 193–4, 195–7, 262–4,
 270–1
 on public-private takings, 254–5
- Paterson, William, 1
- Permission of a Public Project, in Korea
 under KLTC, 167–70, 179–80
 legal effect, 236
 process of, 235–6
 scrutiny in stage of, 167–70
 verification of public interest, 233–5
- Peru, eminent domain, 122–3
- Pfizer, Inc., 47
- Philippines, eminent domain
 self-declaration of land value and
 compensation, 138
 timing of compensation, 147
- Poletown Neighborhood Council v. City*
of Detroit (1981) (Mich. S. Ct.),
 46–7, 183
- possessions, under ECHR, 79–80
- Potential Pareto Efficiency, *see* Kaldor-
 Hicks Efficiency
- preliminary injunctive relief, in
 Germany, 32
- Principle of Prohibiting the Condemnee
 from Sharing in the
 Development Surplus (KLTC),
 259–60
- Pritchett, Wendell, 44–5
- proportionality principle, in German
 administrative and
 constitutional law, 28
- public interest criteria for takings
 (Pillar 1), defined, 3
see also European Convention on
 Human Rights (ECHR); *specific*
countries

- 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 Lönnroth 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)
 Civil Code, statutory easement, 101
 constitutional provisions, 93, 97
 dispute resolution system, 108–10
 administrative courts, 110
 review committees in
 administrative appeals, 109
 distribution of development surplus,
 107–8
 due process for takings, 106–7
 evaluation of takings regime, 110–14
 hedonic regression models, 111
 ordinary least square model with
 robust standard errors, 111–14
 incidental expropriation, 94
 just compensation, 101–6
 adjustment ratios, 105–6
 agricultural improvements, 102–3
 appraisal of land market value,
 103–6
 businesses losses, 103
 constructional improvements, 102
 expenses for land
 improvements, 103
 judicial review of cases, 106
 relocation expenses, 103
 land expropriation, 94
 during 2001–2013 (table), 95
 land use applicants, 99–101
 Land Value Evaluation Committees,
 104, 105, 107, 109
 need for statistical methods in land
 valuation, 93–7
 procedures (flow chart), 100, 106
 public interest criteria
 (Article 3), 97–9
 Regulations on Appraising Current
 Market Value for Takings
 Compensation Purposes, steps
 in, 104–5
 Regulations on Real Estate
 Appraisals vs., 104
 revision of (2012), 98, 114–15
 state condemnation criteria, 97–9
 cultural and ecological
 factors, 99
 economic factors, 98
 social factors, 98
 sustainable development
 factors, 99
 summary conclusion, 114–15,
 297–302
 Takings Review Task Force, 99
 zone expropriation, 94
 during 2001–2013 (table), 96
 distribution of development
 surplus, 108
 Tale of Two Pies principle
 (Epstein), 183
 Tanzania, eminent domain
 agricultural development and, 123
 Tata Motors, 126
 temporary possession, in Germany, 33–4
 Texas Supreme Court, rulings on
 eminent domain, 61–2
 Thomas, Clarence, 48–9
 Transatlantic Trade and Investment
 Partnership (TTIP), 74
 Treaty of Lisbon (2009), 71, 73, 76–7
 Treaty on European Union (TEU),
 71, 76–7
 Treaty on the Functioning of the
 European Union (TFEU), 76–7
 Article 345, 89
 Trump, Donald, 51
 Turkey, eminent domain
 timing of compensation, 147
 Turnbull, Geoffrey, 190
 Uganda, eminent domain, 123
 United Kingdom, eminent domain
 compulsory purchase order
 (CPO), 186
 direct private taking, 184
 Leasehold Reform Act (1967), 80–3
 public interest criteria, 80–3
 scope of public-private taking,
 185, 186
 Transport and Works Act, 184
see also specific cases
 United States, eminent domain
 introduction, 38–40
 blight condemnations, 46–7,
 48–9, 52
 challenges in, 119

- 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