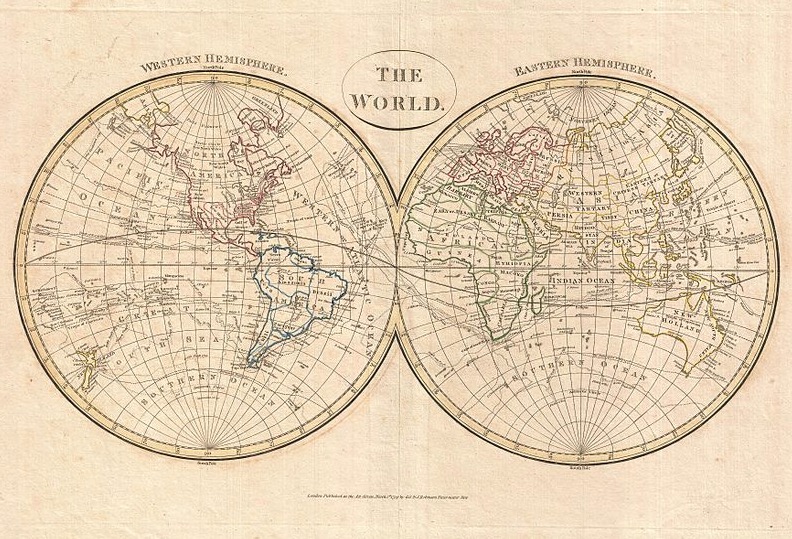
Property Rights Around the World  
Article by Kendall Jarboe



One of the tricky parts to Lincoln-Douglas is finding solid applications, or examples, that support your side. With Stoa voting to have only one resolution this year, it is imperative that you are at least familiar with a broad base of applications to draw from so that each debate isn’t about the same-ol’ same-ol’ arguments. It is common for LDers to think that, “because we live in the United States, we should only pull from U.S. examples.” While it’s very important to understand the history behind private property rights in the U.S., there are so many more examples worldwide.

Notice how the resolution doesn’t limit the debate to just the United States. Let’s examine **countries all over the world and how they view private property rights to broaden our application database.** Towards the latter half of the year, your judges will especially appreciate fresh examples while your opponents won’t know what to expect!

# The Americas

In **Canada**, the right to property on a national level has limited protection from *The Constitution Act, 1867*. The power falls mainly to the provinces. *The Canadian Charter of Rights and Freedoms* was enacted in 1982 and it provides certain individuals with a right against intrusion by the state. A portion of the Charter reads,

“Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.”

Notice how property rights is not included. This means that certain laws restricting one’s right to private property are constitutional. *The Canadian Bill of Rights*, enacted in 1960, states,

“the right to the enjoyment of property, and the right not to be deprived thereof except by due process of law.”[[1]](#footnote-1)

However, this is not a constitutional document, merely a law that only applies to the federal government. In 2010, the government of Alberta amended the *Mines and Minerals Act* which granted certain areas of land to the government and explicitly stated that there would be neither just compensation nor the opportunity to oppose the government’s action. As harsh as this sounds, it all falls under a valid exercise of government according to the Canadian constitutional framework. There have been proposals to amend *The Canadian Charter of Rights and Freedoms* but they have yet to be successful.

This example probably would have been sent to the Supreme Court had it taken place in **The United States of America**. In *The Constitution of the* *United States of America*, the Fifth Amendment states that,

“No person shall be . . . deprived of life, liberty or property without due process of law; nor shall private property be taken for public use, without just compensation."[[2]](#footnote-2)

The last two words of that sentence is what produced the idea of eminent domain. Cornell University Law School describes eminent domain as,

“The power of the government to [take](https://www.law.cornell.edu/wex/takings) private property and convert it into public use. The [Fifth Amendment](http://www.law.cornell.edu/constitution/constitution.billofrights.html#amendmentv) provides that the government may only exercise this power if they provide just compensation to the property owners.”[[3]](#footnote-3)

The problem with eminent domain, many argue, is that it leaves the doors open to abuse. What constitutes as, “public use” is difficult to determine and ultimately left to the government. In the landmark Supreme Court case of *Kelo v. City of New London* (2005), it was argued that eminent domain was used in a time where the, “public use” was unclear. In a 5-4 decision, the Court ruled in favor of New London and its use of eminent domain.[[4]](#footnote-4) Since then, many states have amended their laws regarding eminent domain in response to the public’s disapproval of the decision.

In the 2015 International Property Rights Index (IPRI), Latin America is listed second to last out of the seven regions with **Haiti** and **Venezuela** in the bottom ten out of the 129 countries studied.[[5]](#footnote-5) In 2013, IPRI released an in-depth study on Venezuela and concluded that the country has, “a systematic policy of disregard for tangible and intangible property rights,” including “legal reserve of ownership of agrarian lands on behalf of the Republic (national power)” and “seizure of companies.”[[6]](#footnote-6)

Hernando de Soto, president of the [Institute for Liberty and Democracy](http://www.ild.org.pe/about-us) in **Peru** and author of the index’s introduction, states that a lack of property rights, means that small businesses “cannot collateralize their assets to get the credit and capital needed to prosper . . .”6

**Chile** is a rare example in the South American region that, generally speaking, values private property rights. Out of the 22 countries IPRI studied in Latin America and the Caribbean, Chile ranked first.[[7]](#footnote-7) The Heritage Foundation in its Index of Economic Freedom noted that,

“Property rights and contracts are strongly respected, and expropriation is rare.”[[8]](#footnote-8)

# Europe

*The European Convention on Human Rights* is an international treaty signed by 47 of the approximately 50 countries in Europe. While each country differs in their own forms of government and constitutions, this treaty gives us a general overview of the conditions of private property rights in Europe. In *The Convention*, Article I of Protocol Number 1 states,

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The proceeding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”[[9]](#footnote-9)

This should remind you of the Fifth Amendment in the United States’ Constitution. One of the few differences is that instead of “public use” Europe generally adheres to “public interest” and “general interest.” Just as is the case in the United States, it is difficult to determine or limit what is in the general interest. This hindrance has stemmed many Court cases such as *Pine Valley Developments Ltd and Others v.* ***Ireland***, *Sporrong and Lönnroth v.* ***Sweden***, and *Matheus v.* ***France***.[[10]](#footnote-10)

It is important to note that **Finland** was listed first out of the 129 countries in the world that were studied in the 2015 IPRI. Finland has, in fact, for many years now, claimed this title. What is so interesting is that even though they rank number one in terms of valuing private property rights, Finland practices something called everyman’s rights. As defined by the Finnish Ministry of the Environment,

“Finland’s legal concept of everyman’s right gives everyone the chance to enjoy outdoor pursuits, and the freedom of the country’s vast forests and fells, and many lakes and rivers, with few restrictions.”[[11]](#footnote-11)

This concept holds the idea that private property laws, in terms of physical land, can be almost ignored as long as you are respectful to the property and its owners. While, on first sight, this might seem like a terrible idea that would destroy private property, Finland has maintained its spot at the top of the IPRI list. Practicing a similar legal concept, **Norway** ranked second and **Sweden** comes in seventh in the world.7

# Asia

The Association of Southeast Asian Nations (ASEAN) consists of ten countries in Asia. According to the 2015 IPRI, the best performing ASEAN country, **Singapore**, ranks 5th and the worst performing ASEAN country, **Vietnam**, ranks 85th. Major differences can be seen between how these countries value private property. Singapore plays an active role in trade, investments, valuing private and intellectual property rights.[[12]](#footnote-12) Vietnam, on the other hand, is still experiencing the repercussions of several years of almost complete disregard of private property rights. *The 1992 Constitution* during the period of national renewal states in Article 17 and Article 18, respectively,

“Land, forests and mountains, rivers and lakes, water sources, natural resources lying underground, wealth in the sea, the continental shelf and airspace,... all belong to the ownership of all the people” and “the State uniformly manages all land according to planning and law and ensures that it is used for proper purposes and with efficiency. The State assigns land to organizations and individuals for long-term stable use. The organizations and individuals have the responsibility to protect, improve, rationally exploit and economically use the land and may transfer their rights to use the land assigned by the State strictly according to the provisions of law.”[[13]](#footnote-13)

While some of this may sounds reasonable, it basically means that all of Vietnam’s property belongs to the State. There is a notable difference when we compare Vietnam to Singapore. The same can be said when we compare **India** to **China**. According to The Daily Signal,

“India is a democratic country that does not recognize the right to personal property in its constitution. While the original constitution—formed after independence—included the right to personal property, a few years later parliament voted to amend the constitution, striking the right to property.”[[14]](#footnote-14)

Derek Scissors is a Research Fellow for Asia Economic Policy at The Heritage Foundation's Asian Studies Center. He draws the contrast between China’s economic success and India’s lack thereof,

“The change in property rights regime in China is what triggered the rise of China. Everything came from that. You had greater agricultural productivity because people had greater property rights. When you had greater agricultural productivity people didn’t need to work on the farm. They moved to the cities so they could manufacture things so that they could sell things overseas. The whole Chinese story starts with property rights…. All development starts with secure property rights to land…. The same thing can happen in India.”14

A rare exception to Asia’s trend is that of **Japan**. Japan ranks eighth in overall private property rights on the 2015 IPRI and first in terms of intellectual private property rights.7 Some argue that Japan gets their respect for private property from the post-World War II influence The United States had on Japan. However, a recent study suggests that Japan’s progress began before then. The *National Bureau of Economic Research* finds that,

“Japan acquired its colonies through wars from the 1890s to the early 1940s, including Taiwan and South Korea. Japan lost all of these colonies after World War II, and its land survey was interrupted in some places by the war… Our estimates show that property-defining institutions stimulated financial markets that contributed to economic development.”[[15]](#footnote-15)

# Africa

There’s no denying it, one quick glance at the most recent IPRI and you will notice that Africa ranks last out of all seven regions.7 On your second glance you might also notice that there are many countries in Africa that are undocumented. That is because a large portion of Africa is unregistered and has no specific owner. In fact, a World Bank Report estimated that around 90 percent of Africa’s rural land is undocumented. This makes the area as a whole very vulnerable.[[16]](#footnote-16)

A country that exemplifies a typical country in Africa is **Uganda**. The Constitution (1995) and the Land Act (1998) had acted as a catalyst for progress in Uganda. Throughout several reforms in 2008 and 2009, Uganda is trying to figure out how to bring economic success to its nation. Slowly, but surely, they are realizing that private property rights play a large role in this. Covered with governmental bureaucracy, many individuals want to register their land but few have actually completed the process. It is also important to note that the land registration systems in Uganda, and most likely the majority of Africa, are heavily biased against women.[[17]](#footnote-17) If you are running the value of Equality or something similar, it would be worth your while to look into countries like Uganda for applications.

# In Conclusion

I hope by now you are wondering the HOW and the WHY behind all of this. After all, the IPRI is just a bunch of data and statistics. The ins-and-outs of each example are fairly dependent on each country, but a tip is to look for values. Ask yourself this, “What was (insert country here) really trying to value by promoting property rights?” This will save you a lot of confusion in trying to choose a value or determining if your applications fit with your case. Maybe none of the examples work with your case—and that’s okay. It’s beneficial for you to be familiar with how countries outside of the U.S. operate. Don’t get stuck in an application rut. There is SO MUCH out there to be researched in terms of unique examples, you just have to do a little digging. Broaden your horizons by looking at physical and intellectual private property rights from all over the world.

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