

準財產權

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本文主要目的在探討財產權態樣之轉變和準財產權之形成。第二部分探討國內財產權之概念。第三部分介紹政府賦與之具有財產利益之法律上地位之類型及其重要性。第四部分舉例說明現行法律中對於因繼續性法律關係而具有財產利益之法律上地位之規定，並探討各規定對於受保護之權利人之重要性。第五部分討論私有財產和公有財產的範圍，將私有財產區分為自然人財產和私團體財產，並將自然人財產區分為個人專屬財產和可替代財產，強調個人專屬財產對於個人自由和獨立自主之重要性，以及個人專屬財產受法律特殊保護。第六部分檢討財產權態樣之轉變，以及此種轉變對於個人和社會之影響。最後，筆者認為現在享有特定財產權利或利益之人對其未來亦將繼續享有該權利或利益的正當期待，應承認其具有財產權之地位，而為了與傳統之財產權相區別，可稱為準財產權，使得這種攸關個人物質福利之法律上地位，也能受到法律之保障。

一、引言

二、國內有關財產權之概念

三、政府賦與之具有財產利益之法律上地位

四、因繼續性法律關係而具有財產利益之法律上地位

五、私有財產和公有財產之範圍及個人專屬財產之重要性

六、財產權態樣之轉變對於個人和社會之影響

七、準財產權之承認——代結論

一、引言

財產權是憲法所保障的基本權利之一，¹ 憲法既明言保障財產權，證明私有財產權制度為憲法所承認(林紀東，1983：153)。雖然財產權並非唯一界定個人和國家權利義務的制度，但是在一個重視物質福利的社會，物質福

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Quasi-property

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Abstract

The purpose of this thesis is to explore the change of the form of property and the formation of quasi-property. The second part explores the concept of property in this country. The third part introduces the largess of government and its importance. Part four exemplifies several concerning laws about protection of the expectancy of continuous legal relationship and interprets their importance. Part five discusses the differences between private and public property, and divides private property into individual property and property of private organizations. It also goes ahead to divide individual property into personal property and fungible property and emphasize the importance of personal property for freedom and independence of a person, and special legal protection of personal property. Part six examines the change of the form of property and its impact on an individual and a society. Finally, I conclude the expectancy of continuous legal relationship should be recognized as property. In order to differentiate it from traditional concept of property, we can call it quasi-property and make it have the same protection as property.