**private property/私产(Sī Chǎn)**

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| Final Remarks | Prof. Thomas GERGEN | 24 Feb 2022 |

**In Chinese law, private property …**

As far as European law is concerned, the key term is composed of the two terms “property” and “private”. “Property” is generally understood to mean a “thing” or an immaterial “good” that is able to be possessed. Looked at from a historical, social, cultural, and especially from a juridical lens, property is a bundle of rights and entitlements, as well as a category that symbolizes the relationships and behaviors between persons and corporate actors. It is also understood to be a legal model for the attribution of things to persons: natural and legal persons like companies. Persons can be individualized, attribution of property makes them unique.

Furthermore, property and the rights to said property protect the interests of specific groups and, to such an extent, act as a code for the political and cultural order that arise from certain value preferences and rights to act, meaning the determination of who and what will be recognized, protected, and excluded. Property embodies generally positive and outward-looking characteristics: hard work, competence, skill, and the ability to rise from rags to riches.

As an institution under private law, property provides information on the person (who can/may be the proprietor), on the relationship of said person to other subjects of private law (and thereby exclusion of other interested parties), and on the manner of allocation pertinent to the good and its characteristics (the content of the legal position, the scope and extent of the right of control and the right of defence, exploitation rights, and other entitlements).

With the departure from citizenship law as an anchoring point, the European law helps property to be seen as a universal human right once more. Moreover, the right of property concerns the right of inheritance, the line of succession following a death, and the transfer of family property.

A radical change is taking place in the perception of *droits intellectuels*, which are certainly considered to be *droits subjectifs,* thus earning them their own category; nevertheless, it is apparent within the term “intellectual property” itself that although it is considered a real right (property), it cannot be considered to be a typical real right due to its invisibility and intangibility. Intellectual property is property for a limited time and distinguishes itself thereby from classical physical (tangible) property. Unlike other laws for the protection of industrial property, author’s rights for intellectual property first come into force once the work has been created and not upon acceptance into a register. On the other side, the duration of these rights differs vastly: author’s rights, 70 years after the death of the creator/issuer; patent rights, 20 years; trademark rights, 10 years, though extendable unlike inventor’s rights. Intellectual property is therefore a special form of classical private property.