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(articles, book review and case note included in this part are linked to the LexisNexis platform)

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Articles

[A theory of the right to property under the *Human Rights Act 2019* \(Qld\)](#)

— *Kent Blore and Nikita Nibbs*

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The right to property in s 24 of the Human Rights Act 2019 (Qld) ('Human Rights Act') is uncharted territory. It has not yet received detailed consideration by the courts and it has no direct analogues in human rights legislation in other jurisdictions. This article explores the lessons that can be learned from the case law and commentary on human rights to property in Victoria, South Africa, Europe and beyond. The article draws those lessons together to propose a theory that the right to property under s 24 of the Human Rights Act has a narrow core — focusing on the material possessions required for a meaningful human existence — but a wide penumbra, extending out to the broadest possible understanding of property. An impact on the core of the right — such as an eviction — will be harder to justify, compared to an impact on the penumbra — such as the imposition of a tax.

[A comparative analysis of rights of pre-emption in property law](#)

— *Jer-Shenq Shieh and Guoqing Liu*

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The right of first refusal ('ROFR'), a synonym for a pre-emptive right to acquire an interest in property, is protected under both common law and civil law systems, the latter including the law of Taiwan, which is the special focus of this paper. A ROFR is distinguishable from an option in that the ROFR will not be exercisable if the owner of the property subject to the right does not offer it for sale, while an option is not necessarily to be associated with the sale of land as there could be 'an option to buy' or 'an option to renew' attached to a lease agreement. This article aims to analyse the true nature of ROFR and its juridical status under common law systems as well as its statutory legal status under civil law systems. It argues that the ROFR, more specifically the priority in purchasing co-owned land enjoyed by co-owners or by occupying tenants in leased land, is a product of statute in civil law jurisdictions whereas at common law it is protected by a combination of the common law of contract and equity. The historical and modern reasons for support of such a privilege in purchasing co-owned or leased land in the Chinese, as well as Taiwanese, legal system were (a) to keep the land as much as possible within a 'zu', as land was considered to be inheritable wealth; and (b) to keep as few as possible the co-owners, which in turn, would reduce the potential amount of disagreement among the co-owners. In contrast, the precise legal status of the ROFR in common law systems, in particular, whether the ROFR holder was entitled to an equitable interest, was for a long time unsettled. This article attempts to answer some questions relevant to both systems of law. Specifically, it assesses the current legal status of the right of pre-emption in Anglo-Australian common law; it considers whether it is legally or economically justifiable for civil law legal systems, including the Taiwanese legal system, to strictly enforce the statutory pre-emptive rights, thereby jeopardising the seller's freedom of disposition of his property; and it asks, finally, whether Australian law should

recognise the inherent pre-emptive rights enjoyed by co-owners or occupying tenants as enforceable statutory rights.

This article has an extensive reference to approaches adopted by different countries such as the United States, England, Germany and mainland China, but the main focus of our discussion is ultimately on Taiwanese law and Australian law in regards to the legal status of ROFR.

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