

# A Review of the Paper on the System of Return under the Framework of Property Rights Protection and Tort Liability

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**Abstract:** *This article aims to deeply analyze the restitution system within the framework of property rights protection and tort liability, exploring its theoretical basis, practical applications, and existing issues, and to propose suggestions for improving this system. Through methods such as literature analysis, case studies, and comparative research, this article reveals the significant role of the restitution system in safeguarding the legitimate rights and interests of property right holders and promoting the pursuit of tort liability. At the same time, it points out problems in the current system, such as unclear legal application and difficulties in enforcement. In response to these issues, this article proposes improvements such as strengthening the legal foundation and optimizing judicial procedures, with the aim of providing references and insights for research and practice in related fields.*

**Keywords:** *Property Rights Protection; Tort Liability; Restitution System; Theoretical Basis; Practical Application*

## 1. Introduction

With the market economy's development, issues of property rights protection and tort liability have risen. The restitution system, crucial in this framework, is vital for maintaining social order and transactional security(Zhang, X. 2018).<sup>[1]</sup> However, it faces challenges in practice, requiring further research and refinement. Property rights protection and tort liability are core areas in the civil legal system. The first aims to safeguard property owners' rights, while the latter pursues legal action against tortious acts, upholding fairness and justice(Hoffmann, S. A., & Hanemann, W. M. 2005).<sup>[2]</sup> Together, they form the cornerstone of the civil legal system. The restitution system mandates tortfeasors to return illegally possessed property, restoring rightful owners' rights. It also pursues tort liability, imposing sanctions on tortfeasors. As market economy and social changes deepen, property rights and tort liability issues become more complex. The restitution system, crucial for maintaining order and security, directly impacts social fairness and justice. Thus, in-depth research and improvement suggestions hold significant practical and theoretical value(Anyangah, Y. T. 2017).<sup>[3]</sup>

## 2. Literature Review

### 2.1. Review of Theoretical Foundations

Property rights encompass the direct and exclusive legal privileges that a holder possesses over a particular object. These rights are characterized by their absoluteness, exclusivity, and the ability to pursue legal remedies (La Porta, R., et al.1997).<sup>[4]</sup> Depending on the specific content of these rights, property rights can be categorized into ownership, usufructuary rights, and security rights (Djankov, S., et al.2007).<sup>[5]</sup>

Tort liability, on the other hand, represents the civil obligation that arises as a consequence of tortious conduct. The essential components of tort liability include the existence of a tortious act, damage incurred, a causal link between the act and the damage, and fault or negligence on the part of the perpetrator. Tort liability can only be established when all four of these elements are present simultaneously (Qian, J., & Strahan, P. E.2007).<sup>[6]</sup>

The restitution system is a legal framework that mandates the return of illegally possessed property to its rightful owner. The theoretical foundation of this system is rooted in principles such as the protection of property rights, the imposition of tort liability, and the principle of fairness. These principles

collectively form the legal underpinning of the restitution system.

## **2.2. Development of the Restitution System**

### **2.2.1. Historical Evolution of the Restitution System at Home and Abroad**

The evolution of the restitution system both domestically and internationally displays distinct characteristics. Within our borders, the restitution system has seen continuous progress and refinement from ancient times up to the present. In contrast, internationally, the restitution system exhibits a range of forms and development paths, depending on the particular legal system in place (Bae, K., & Goyal, A. 2009).<sup>[7]</sup>

### **2.2.2. Manifestations of the Restitution System in Different Legal Systems**

Under various legal frameworks, the restitution system takes on diverse shapes. In countries that follow continental law, for instance, the restitution system is typically closely aligned with the system for protecting property rights (von Lilienfeld-Toal, U., et al. 2012).<sup>[8]</sup> Conversely, in common law countries, the focus lies more on achieving the objectives of restitution through the framework of tort liability.

## **2.3. Summary of Previous Research Results**

Scholars at home and abroad have achieved fruitful results in the research on the restitution system within the framework of property rights protection and tort liability. These results cover theoretical discussions, case analyses, legislative suggestions, and other aspects, providing valuable references and insights for the research in this paper.

## **2.4. Research Gaps and Deficiencies**

Currently, there are still some gaps and deficiencies in the research on the restitution system within the framework of property rights protection and tort liability. For example, research on the legal basis, practical applications, and existing issues of the restitution system is not yet sufficient. At the same time, there is a lack of systematic exploration and suggestions on how to improve the restitution system. Therefore, this paper aims to fill these research gaps and deficiencies, providing references and insights for research and practice in related fields (Gu, N., & Kowalewski, O. 2016).<sup>[9]</sup>

## **3. Overview of Research Methods**

### **3.1. Comprehensive Strategy of Research Design**

This study employs a combination of methods including literature analysis, case study, and comparative research. Firstly, through extensive collection and analysis of relevant literature, we deeply explore the theoretical foundation and practical application of the restitution system within the framework of property rights protection and tort liability. Secondly, by conducting an in-depth analysis of specific typical cases, we aim to uncover the major issues and challenges faced by the restitution system in practical operation. Finally, through a comparative analysis of the similarities and differences in the restitution system across different legal systems, we propose a series of suggestions for improving China's restitution system (Choa, R. H., et al. 2013).<sup>[10]</sup>

### **3.2. Data Sources**

The data for this study primarily comes from relevant literature, judicial cases, and statistical data. We have extensively collected literature using library resources, academic databases, and other channels. At the same time, we have obtained a wealth of typical cases and statistical data by accessing court websites, judicial case databases, and other sources. This data provides solid support for the in-depth research conducted in this paper.

### **3.3. Research Auxiliary Tools and Techniques**

In the research process, we utilized various research tools and software to enhance research efficiency and accuracy. For example, we used literature management software to systematically classify, organize,

and manage the collected literature; we employed data analysis software to scientifically process and analyze the statistical data; and we utilized chart-making software to visually present the research results. The application of these tools and software has significantly improved the scientific rigor and accuracy of this study.

#### **4. Research Findings**

##### ***4.1. Analysis of the Theoretical Basis of the Restitution System***

###### ***4.1.1. Jurisprudential Foundations***

The restitution system is grounded in several key principles, including the principle of property rights protection, the principle of tort liability, and the principle of fairness. These principles collectively form the theoretical backbone of the restitution system, providing a solid legal foundation for its formulation and enforcement.

###### ***4.1.2. Positioning within the Framework of Property Rights Protection and Tort Liability***

The restitution system occupies a significant position within the framework of property rights protection and tort liability. It serves as a crucial means of protecting property rights and an integral part of tort liability pursuit. By requiring the infringer to bear the responsibility of restitution, the system ensures the protection of the legitimate rights and interests of the property owner and imposes legal sanctions on the infringing behavior.

##### ***4.2. Examination of the Practical Application of the Restitution System***

###### ***4.2.1. Conditions for Application in Judicial Practice***

In judicial practice, the conditions for applying the restitution system mainly include: firstly, the existence of an infringement that has resulted in the property owner losing possession of the property; secondly, the property owner's request for restitution and the possibility of restitution; and thirdly, the infringer's obligation to return the property without any exemption from liability. Only when these conditions are met simultaneously can the restitution system be applied.

###### ***4.2.2. Execution Procedures and Effects***

The execution procedures of the restitution system typically involve case filing, investigation and evidence collection, trial and judgment, and execution. During the execution process, the court will enforce the law against the infringer, requiring them to return the illegally possessed property to the property owner. In terms of execution effects, the restitution system effectively restores the legitimate rights and interests of the property owner, safeguarding social order and transaction security.

###### ***4.2.3. Analysis of Typical Cases***

Through the analysis of typical cases, this paper delves into the practical application of the restitution system. For example, in a property dispute case, the court legally adjudicated that the infringer should bear the responsibility of restitution and return the illegally possessed house to the property owner. This case fully demonstrates the important role of the restitution system in protecting the legitimate rights and interests of property owners.

##### ***4.3. Issues and Challenges Facing the Restitution System***

###### ***4.3.1. Ambiguity in Legal Application***

Currently, there are ambiguities in the legal application of the restitution system. For instance, the provisions regarding the nature, exercise conditions, and limitation period of the right of restitution are not sufficiently clear and complete. This makes it difficult to accurately apply the restitution system in practice to safeguard the legitimate rights and interests of property owners, to visually demonstrate the complexity of the constituent elements of the system of return, as shown in Table 1.

*Table 1 Detailed Explanation of the Constituent Elements of the Right of Return*

Constituent Element	Description
Qualifications of the Claimant	Must be the property owner or rightful claimant
Qualifications of the Defendant	Must be the unauthorized possessor
Nature of the Right	A right arising from property rights protection or tort liability
Conditions for Exercise	Existence of an infringement leading to loss of possession by the property owner; request for return with the possibility of return; no exemption for the defendant
Prescription Period	Determined according to relevant legal provisions, often involving the Property Law and Tort Liability Law

#### 4.3.2. Challenges in Execution

The execution of the restitution system poses significant challenges. On the one hand, infringers may intentionally evade execution or adopt other means to obstruct it, leading to poor execution results. On the other hand, cumbersome execution procedures and high costs also increase the difficulty of execution, to illustrate the relationship between the system of returns and tort liability, as shown in Table 2.

*Table 2 Relationship Between the Right of Return and Tort Liability*

Legal Basis	Nature	Conditions for Application	Legal Consequences
Property Law	Property Right Claim	Unauthorized possession	Return of property
Tort Liability Law	Tort Liability	Infringement of property rights	Return of property or compensation for losses

#### 4.3.3. Other Related Issues and Challenges

Apart from the aforementioned issues, the restitution system faces other related challenges. For example, the provisions regarding the custody, disposal, and compensation of returned items are not yet perfect. Additionally, in cross-border property disputes, the application of the restitution system encounters certain challenges and difficulties.

#### 4.3.4. Support from Data and Charts

This paper utilizes charts and data to visually present the research findings. For instance, by drawing flowcharts of the applicable conditions of the restitution system and compiling tables of its execution effects, readers can gain a more intuitive understanding of the practical application and existing issues of the restitution system.

## 5. Discussion and Conclusion

### 5.1. In-depth Analysis

Through a thorough examination of the research findings, this paper unveils the pivotal role of the restitution system within the framework of property rights protection and tort liability, as well as the issues and challenges it faces. Additionally, the paper delves into the intrinsic connections and interactions between the restitution system and other legal systems, providing valuable insights and references for the further refinement of the restitution system, as is shown in table 3

*Table 3 relationship or framework structure among "Property Rights Protection," "Tort Liability," and "Restitution System"*

Element	Property Rights Protection	Tort Liability	Restitution System
Definition & Core	Safeguarding the exclusive rights of property owners over their property	Legal responsibility arising from illegal acts	Legal mechanism requiring the return of unlawfully possessed property to the rightful owner
Legal Basis	Property laws and related regulations	Tort laws and related regulations	Property laws, tort laws, and related regulations
Purpose	Preserving the legitimate rights and interests of property owners	Sanctioning illegal acts to uphold fairness and justice	Restoring the rights of property owners and sanctioning illegal acts
Logical	Property rights protection	Tort liability arises as a legal	The restitution system is one way

Relationship	serves as the premise for tort liability and the restitution system	consequence of property rights infringement	of bearing tort liability, aimed at restoring the state of property rights protection
Framework Structure	Property rights (ownership, usage rights, etc.) → Protection mechanisms (laws, contracts, etc.)	Tortious acts (injury, damage outcome, causation, fault) → Liability bearing (compensation, apology, etc.)	Unlawful possession (possessing others' property without legal basis) → Restitution request (by the rightful owner) → Restitution execution (legal procedures)

## 5.2. Presentation of Views

This paper presents the following key viewpoints: first, strengthening the legal foundation of the restitution system by clarifying the nature, exercise conditions, and limitation periods of restitution claims; second, optimizing the execution process of the restitution system to enhance efficiency and effectiveness; third, improving the regulations on the custody, disposal, and compensation of returned items; and fourth, enhancing the applicability and research of the restitution system in transnational property disputes. These viewpoints offer beneficial ideas and strategies for optimizing China's restitution system.

## 5.3. Future Predictions and Suggestions

With the vigorous development of the market economy and profound societal changes, the restitution system will encounter more challenges and opportunities. This paper predicts that the restitution system will increasingly emphasize the protection of property owners' legitimate rights and interests and impose stricter legal sanctions on infringing behaviors; it will also prioritize coordination and cooperation with other legal systems. In response to these trends and challenges, the paper suggests strengthening theoretical research and practical exploration of the restitution system, continuously improving its institutional design and execution mechanisms, and enhancing international exchanges and cooperation to absorb advanced foreign experiences and promote the internationalization of China's restitution system.

## 5.4. Key Findings and Significance

The key findings of this paper include: the restitution system plays a crucial role in the framework of property rights protection and tort liability; the current restitution system faces issues such as unclear legal applicability and difficulties in execution; and improving the restitution system requires strengthening its legal foundation and optimizing execution procedures. These findings hold significant theoretical and practical value for promoting the refinement and development of China's restitution system.

## 5.5. Implications for Related Fields

The research results of this paper have profound implications for research and practice in related fields. On the one hand, they reveal the important role of the restitution system in the framework of property rights protection and tort liability, as well as the challenges it faces, providing valuable references for research in related fields. On the other hand, the suggestions and ideas for improving the restitution system offer beneficial guidance for practice in related fields.

## 5.6. Research Prospects

In the future, research on the restitution system within the framework of property rights protection and tort liability will continue to deepen. With the development of the market economy and societal changes, the restitution system will face more challenges and opportunities. Therefore, this paper anticipates that more scholars and experts will focus on research and practice in this field, jointly promoting the refinement and development of China's restitution system.

## 6. Conclusion and Outlook

### 6.1. Research Summary

This paper comprehensively and deeply explores the restitution system within the framework of

property rights protection and tort liability. By reviewing the basic theories of property rights, tort liability, and the restitution system, it clarifies the core role of the restitution system in safeguarding property owners' legitimate rights and interests and promoting the pursuit of tort liability. Simultaneously, through case studies and comparative research, it reveals the applicable conditions, execution procedures, and effects of the restitution system in judicial practice, as well as the existing issues and challenges. The study finds that the restitution system holds an irreplaceable position in the framework of property rights protection and tort liability, but there are still numerous deficiencies in legal applicability, execution procedures, and coordination with other legal systems.

## 6.2. Research Contributions

In terms of theoretical contributions, this paper systematically reviews and organizes the basic theories of property rights, tort liability, and the restitution system, providing a solid theoretical foundation for research on the restitution system. In terms of practical contributions, through case studies and comparative research, it uncovers the operational mechanisms and existing issues of the restitution system in judicial practice, offering new perspectives and ideas for research in related fields. In terms of policy implications, the research results of this paper provide policy-makers with ideas and directions for improving and refining the restitution system, and put forward specific policy suggestions.

## 6.3. Research Outlook

In the future, research on the restitution system within the framework of property rights protection and tort liability will continue to deepen. With the development of the market economy and societal changes, the restitution system will face more challenges and opportunities. Therefore, this paper anticipates that more scholars and experts will pay attention to research and practice in this field, jointly promoting the refinement and development of China's restitution system. Specific research directions may include deepening theoretical foundation research, strengthening empirical research, promoting institutional innovation, and enhancing interdisciplinary research.

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