

The Civil-Law Nature of The Institution of Unjust Enrichment and Certain Theoretical and Practical Problems of Its Application

Fayziev Farrukhjon Nematillaevich

Ministry of Education and Science, Head of The Legal Support Department, Independent Researcher at The Department of Civil and Business Law, Karakalpak State University, Uzbekistan

Received: 22 August 2026 | Received Revised Version: 16 September 2026 | Accepted: 06 October 2026 | Published: 28 October 2026

Volume 08 Issue 10 2026 | Crossref DOI: 10.37547/tajpslc/Volume08Issue10-06

Abstract

The article analyses the civil-law nature of the institution of unjust enrichment and the features distinguishing conditional obligations from civil liability and delictual obligations. On the basis of the scholarly views of Russian and Uzbek scholars, it is substantiated that the obligation to return unjustly acquired or saved property is not a measure of liability, but a mechanism for restoring the property position that has a restitutionary character. The criteria for determining the scope of the property benefit to be returned and the issue of recovering income from a person who has been unjustly enriched under Article 1028 of the Civil Code of the Republic of Uzbekistan are examined. The author critically assesses the possibility of also recovering income that should have been derived from the property and concludes that, as a general rule, the subject matter of a conditional claim should consist of income actually derived, while in resolving the issue of the return of income, whether the income was actually derived, the enriched person's opportunities to use the property, the exercise of due care and reasonableness and the economic justification of the income should be assessed in their interconnection. The formation of the institution of unjust enrichment as an independent type of obligation in civil law is also covered.

Keywords: Unjust enrichment, condictio claim, conditional obligation, delictual obligation, civil liability, restitution, property benefit, recovery of income, principle of full compensation, Article 1028 of the Civil Code.

© 2026 Fayziev Farrukhjon Nematillaevich. This work is licensed under a Creative Commons Attribution 4.0 International License (CC BY 4.0). The authors retain copyright and allow others to share, adapt, or redistribute the work with proper attribution.

Cite This Article: Fayziev Farrukhjon Nematillaevich. (2026). The Civil-Law Nature of The Institution of Unjust Enrichment and Certain Theoretical and Practical Problems of Its Application. The American Journal of Political Science Law and Criminology, 8(10), 49–54. <https://doi.org/10.37547/tajpslc/Volume08Issue10-06>

1. Introduction

Unjust enrichment is understood as one person's acquisition of certain property at the expense of another person, or the saving of his own property, in the absence of the relevant legal grounds provided for by legislative acts or a transaction. In such a situation, the property position of one person improves at the expense of the property interests of another person, yet there is no sufficient legal ground justifying this change in property.

A claim aimed at the return of unjustly acquired or saved enrichment is recognised in civil law theory as a condictio claim. The main purpose of a condictio claim is to eliminate the consequences of a property change that has occurred without the relevant legal grounds and to restore the property balance between the parties.

At present, the institution of unjust enrichment is acquiring particular scientific and practical significance both in civil law theory and in law enforcement practice.

The growing interest in this institution is explained, first of all, by the increasing complexity of the property relations arising in civil circulation, the diversity of the grounds for the transfer of property from one person to another, and the need to protect the property interests of the parties in such relations. In particular, the issues of determining the legal nature of the obligations arising as a result of unjust enrichment, distinguishing them from measures of civil liability and determining the scope of the property to be returned are giving rise to debate in legal science.

In judicial practice, particular attention is paid to the legal essence of this institution when resolving disputes arising from unjust enrichment. In particular, the obligation to return unjustly acquired or saved property is, as a rule, assessed not as a measure of civil liability applied to an offender, but as an independent legal remedy aimed at restoring violated property rights and interests. The essence of this approach is that the obligation of return imposed on the person who has been unjustly enriched serves not to punish him or to worsen his property position, but to return to the true right holder the property benefit obtained without sufficient legal grounds.

This feature of the obligations arising as a consequence of unjust enrichment is also widely recognised in the legal literature. In particular, M.V. Telyukina, comparing obligations arising from unjust enrichment with delictual obligations arising as a consequence of causing harm, emphasises that the legal nature of the restorative legal measures applied within these two types of obligations differs. In her opinion, compensation for the harm caused is a particular form of civil liability. However, it would be incorrect to assess as such a measure of liability the obligation of a person who has been unjustly enriched to return to the aggrieved party the property acquired or saved by him. This is because in such a case the debtor is not deprived of property that he possesses on a lawful basis, but is obliged to return enrichment that has entered his property sphere without legal grounds. In this sense, the performance of a conditional obligation does not entail an additional property loss for the debtor, but is aimed at returning his property position to the state in which it would have been had the unjust enrichment not occurred.

It is also important to analyse this issue from the standpoint of the general features of civil liability. According to A.S. Odineyev, one of the distinctive features characterising civil liability is that the offender

is deprived of a certain part of the property rights lawfully belonging to him in order to satisfy the interests of the aggrieved party. In other words, a measure of liability is characterised by imposing on the offender an additional property obligation that adversely affects his existing property position. In the return of property as a consequence of unjust enrichment, however, the situation is different. Here the person is required to return enrichment that did not enter the scope of his own property rights on a lawful basis. For this reason, the core content of obligations arising from unjust enrichment is not liability, but a mechanism for restoring the property position that has a restitutionary character.

At the same time, in the legal regulation of unjust enrichment relations, not only the issues related to the return of acquired or saved property, but also the procedure for recovering the income derived from such property give rise to certain theoretical and practical problems. In particular, Article 1028 of the Civil Code provides for rules on the recovery of the relevant income from a person who has been unjustly enriched, and their legal essence and limits of application require separate analysis. In our opinion, when applying these norms, it is important, first of all, to determine the legal connection between the unjustly acquired property itself and the income that has been or could have been derived from it. In addition, the place of the obligation to return income within conditional claims and the features distinguishing it from measures of civil liability should not be overlooked.

One of the most controversial issues related to conditional claims is the determination of the scope of the property benefit to be returned or compensated as a result of unjust enrichment. This problem stems from the need to determine the ratio between the property benefit obtained by the person who has been unjustly enriched and the property losses suffered by the aggrieved party. Indeed, in some cases the amount of enrichment obtained by one person may not fully correspond to the scope of the actual property losses of another person. Such a situation raises the question of which criterion takes priority in satisfying conditional claims, that is, whether the scope of the claim should be determined by the property benefit obtained by the enriched person or whether the property losses of the aggrieved party should be taken as the basis.

The scholarly views of D.M. Karakhodjaeva on this issue are noteworthy. In her opinion, in obligations arising from unjust enrichment, the property value returned to the aggrieved party is, as a rule, limited to the amount of

enrichment obtained by the debtor. Consequently, in such obligations there is not always a quantitative proportionality between the property benefit obtained by the enriched person and the actual property losses of the aggrieved party. This aspect makes it possible to distinguish conditional obligations from delictual obligations. Thus, in obligations arising as a consequence of causing harm, the main purpose is to restore the violated property position of the aggrieved party as fully as possible, and the actual amount of the harm caused is of decisive importance. In unjust enrichment relations, by contrast, the main thrust of legal protection is directed at returning the property benefit unjustly obtained at the expense of another person.

A similar point of view has also been put forward by O. Okyulov. As he emphasises, legislative norms requiring compensation of the full value of property, irrespective of how much benefit the person who acquired it has actually obtained, are aimed, first of all, at protecting the property interests of the aggrieved party as broadly as possible. However, the specific feature of determining the scope of claims arising from unjust enrichment is that, in determining the property value to be recovered, the main criterion is not the property losses of the claimant, but the result of the unjust acquisition or saving that has occurred in the property sphere of the defendant. Accordingly, in determining the scope of a conditional obligation, the legal and economic content of the property benefit obtained or retained by the defendant is of great importance.

Thus, obligations arising from unjust enrichment manifest themselves in civil law as an independent legal mechanism for the protection of property interests. Their main function is to restore the property balance between the parties by returning to the appropriate person enrichment that has passed into the property sphere of one person, or has remained at his disposal, without legal grounds. In this respect, conditional obligations differ from obligations arising from the causing of harm not only in the grounds of their emergence, but also in their legal purpose, the scope of the property benefit to be returned and the criteria for determining it. At the same time, the issues related to the recovery of income obtained as a result of unjust enrichment, the determination of the value of the property to be returned and the adequate protection of the property interests of the aggrieved party show the need for a deeper theoretical study of this institution and for improving the practice of its application.

Granting the aggrieved party, under part one of Article 1028 of the Civil Code of the Republic of Uzbekistan, the right to demand from the person who has been unjustly enriched not only the income actually derived from the property, but also the income that should have been derived as a result of the use of that property, gives rise to certain theoretical and practical objections. In our opinion, it is difficult to assess this legislative approach as fully justified. This is because the main purpose of obligations arising from unjust enrichment is not to deprive a person of his lawful property interests or to impose an additional property obligation on him, but to restore the previous property position of the parties by returning to the true right holder the enrichment acquired or saved without legal grounds.

The right to demand the income derived from property is directly connected with the legal and economic characteristics of that property, and it is not appropriate to assess it separately from the principal property relationship that has arisen as a result of unjust enrichment. From this point of view, granting the aggrieved party the possibility of also recovering income that was not actually derived, but could only have been derived under certain circumstances, may place his property interests above the interests of the enriched person. Indeed, determining how much income a person could derive from the relevant property is in many cases based on hypothetical calculations. Such calculations, in turn, depend on the possibilities of using the property, its economic efficiency, market conditions and other objective and subjective factors.

Furthermore, in certain cases the person who has been unjustly enriched may not actually possess the relevant property or may not have used it at all for the purpose of deriving income. In such a situation, demanding from him income that was not actually derived creates a risk of departing from the restorative legal nature of the conditional obligation. In particular, the mere existence of an opportunity to derive income from the use of property, where such an opportunity has not actually been realised, cannot always be a sufficient ground for extending the property liability of a person. For this reason, in obligations arising from unjust enrichment, the result of enrichment that has actually occurred should be adopted as the main criterion in determining the scope of the property benefit to be returned.

In our view, the elimination of the consequences of unjust enrichment should, first of all, provide for the return of the property value actually acquired or saved. Proceeding

from this approach, the recovery of income derived from the use of property should also be linked to its actual existence and amount. That is, it is advisable that the subject matter of a conditional claim should consist of income actually derived, while income of a merely probable or hypothetical nature should, as a general rule, not be included in the scope of the unjust enrichment to be returned. Such an approach makes it possible to preserve the legal essence of the institution of unjust enrichment, to clearly distinguish it from measures of civil liability and to ensure a reasonable balance between the property interests of the parties.

However, other theoretical views on this issue have also taken shape in legal science. In particular, H.R. Rahmonqulov, one of the prominent representatives of civil law scholarship, put forward a broader approach to the issue of returning the property benefit that has arisen as a result of unjust enrichment. In the scholar's opinion, an unjustly obtained property benefit must be returned in full, regardless of the form in which it manifests itself. In this regard, the nature of the property benefit obtained as a result of enrichment, or its expression in a particular form, should not serve as an independent ground for reducing the scope of the obligation of return.

It follows from this approach of H.R. Rahmonqulov that the principle of full compensation is also inherent in obligations arising as a consequence of unjust enrichment. This principle bears a certain similarity to the legal approach applied in delictual obligations arising from the causing of harm, as well as in claims for compensation of losses within contractual relations. Accordingly, the scholar associates the main function of conditional obligations with the complete elimination of an unjustly arising property advantage and the fullest possible restoration of the violated property interests of the aggrieved party.

Another important theoretical approach to this issue has been put forward by M.V. Telyukina. In her opinion, in determining the amount of income to be recovered from the person who has been unjustly enriched, whether the aggrieved party himself used the relevant property or not is not of decisive importance. Moreover, the fact that the aggrieved party would not have had the opportunity to derive income from that property had the unjust enrichment not occurred does not exclude the obligation of the enriched person to return the income.

The essence of this approach is that the income-generating opportunities of the person who took

possession of or used the property as a result of unjust enrichment are assessed independently of the personal opportunities of the aggrieved party. This is because the main content of a conditional obligation consists not in compensating the lost opportunities of the aggrieved party, but in eliminating the unjust advantage that has arisen in the property sphere of the enriched person. From this point of view, in assessing the opportunities to derive income from property, its objective economic characteristics and the actual capabilities of the enriched person are of great importance.

M.V. Telyukina also emphasises that the creditor, in certain cases, has the right to prove that the enriched person could have derived greater income from the property had he observed the requirements of due care, diligence and reasonable management. If it is established that the person had the economic, organisational or other capabilities necessary to derive such income, but did not use these opportunities because he failed to act with due diligence, then limiting the amount of income to be recovered only to the funds actually received may not always be justified.

Thus, according to this scholarly approach, not only the income actually derived from the property, but also the income that should have been derived had due care and diligence been exercised, may be recovered from a person who has been unjustly enriched. In this case, the existence and amount of potential income must be based not on mere assumptions, but on specific economic opportunities and relevant evidence.

In our view, the divergence of the above scholarly views shows that the fundamental issues related to the legal nature of the institution of unjust enrichment have not yet been fully resolved. On the one hand, the restorative character of this institution necessitates limiting the scope of the enrichment to be returned to the property benefit actually acquired or saved. On the other hand, taking into account the enriched person's opportunities to use the property and establishing an obligation to return the income that could have been derived from it may serve to protect the property interests of the aggrieved party more broadly. In such a case, however, the need arises to clearly delineate the boundary between the restorative function of a conditional obligation and the property consequences characteristic of civil liability.

In this respect, in resolving the issue of the return of income within obligations arising from unjust enrichment, it is advisable to assess, in their

interconnection, such circumstances as whether the income was actually derived, the enriched person's opportunities to use the property, whether due care and reasonableness were exercised, and the economic justification of the income claimed. Such an approach makes it possible to protect the lawful property interests of the aggrieved party while preserving the independent legal nature of conditional obligations.

On the whole, the institution of unjust enrichment is one of the important legal institutions of civil law that is constantly being improved and is distinguished by its adaptability to changes in socio-economic relations. The history of its development shows that research aimed at distinguishing obligations arising from unjust enrichment from other types of civil-law obligations, identifying their independent legal features and defining their scope of application has been carried out over a long period in civil law theory and law enforcement practice.

As a result of these theoretical and practical studies, the various forms of unjust enrichment were gradually generalised within a single legal institution and recognised as an independent type of civil-law obligation. In particular, the civil codes adopted from the second half of the last century established obligations arising from unjust enrichment as a separate subject of legal regulation. This indicates that the process of this institution acquiring an independent place in the system of civil law began considerably earlier.

Subsequently, conditional obligations were included in the system of separate types of civil-law obligations and developed as an independent legal institution alongside the delictual obligations arising from the causing of harm. Such systematisation made it possible to recognise at the legislative level that, despite certain common features of conditional and delictual obligations, they differ in the grounds of their emergence, their legal purpose and the property consequences to which they give rise.

The regulation of obligations arising from unjust enrichment in a separate chapter of the current Civil Code has further strengthened the independent position of this institution in the system of civil-law obligations. In particular, the establishment in the Code of rules on the return of unjustly acquired property, the compensation of its value, the recovery of income derived from the property and the relationship of these claims with other methods of civil-law protection has served to clarify the legal regime of conditional

obligations.

Thus, the historical development of the institution of unjust enrichment shows that it has taken shape in civil law as an independent type of obligation. At the same time, the separate regulation of this institution in legislation does not mean that all the theoretical and practical problems related to its application have been definitively resolved. In particular, such issues as determining the scope of unjust enrichment, establishing the ratio between the income actually derived and the income that should have been derived, and distinguishing conditional claims from claims aimed at compensation of losses remain topical in contemporary civil law theory as well. Accordingly, a deeper study of the legal nature of obligations arising from unjust enrichment is of great importance from the standpoint of improving civil legislation, developing uniform approaches in law enforcement practice and effectively protecting the property rights and interests of participants in civil circulation.

References

1. Novak D.V. Neosnovatelnoe obogashchenie v grazhdanskom prave [Unjust Enrichment in Civil Law]: monograph. – Moscow: Statut, 2010. – P. 134. Telyukina M.V. Nekotorye problemy obyazatelstv iz neosnovatelnogo obogashcheniya [Certain Problems of Obligations Arising from Unjust Enrichment]: monograph. – Moscow: INFRA-M, 2012. – P. 45.
2. Odinayev A.S. Majburiyatlarni buzganlik uchun fuqarolik-huquqiy javobgarlikni qo'llashning nazariy va amaliy muammolari [Theoretical and Practical Problems of Applying Civil Liability for Breach of Obligations]: Abstract of the Doctor of Science (DSc) dissertation in Law. – Tashkent, 2025. – P. 15.
3. Fuqarolik huquqi. II qism [Civil Law. Part II]: textbook / Team of authors. – Tashkent, 2008. – P. 463. O'zbekiston Respublikasining Fuqarolik kodeksiga sharh: ilmiy sharhlar. 3-jild [Commentary on the Civil Code of the Republic of Uzbekistan: Scholarly Commentaries. Vol. 3] / Ministry of Justice of the Republic of Uzbekistan. – Tashkent: Baktria press, 2013. – P. 352. Rahmonqulov H. Majburiyat huquqi (umumiy qoidalar) [Law of Obligations (General Provisions)]: for master's students of the "Private Law" track of the Law specialty at higher education institutions. – Tashkent: TSIL, 2005. – P. 165.

4. Telyukina M.V. Kondiktsionnye obyazatelstva (teoriya i praktika neosnovatelnogo obogashcheniya) [Conditional Obligations (Theory and Practice of Unjust Enrichment)]: monograph. – Moscow: INFRA-M, 2021. – P. 116.