

Judicial Challenges and Practical Considerations in the Restitution of Property Arising from Betrothal Gift Disputes

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Abstract: Persistent misconceptions surround betrothal gift disputes in both theoretical research and judicial practice. Such disputes extend beyond mere property restitution, necessitating a clear distinction between the return of betrothal gifts and general property restitution. When addressing property restitution in betrothal gift cases, the discourse should initially focus on the domain of marital customs, followed by the domain of legal application. Betrothal gifts function both as a factual basis for establishing a marriage contract and as an expression of emotional commitment. Their core social function is realized through the formation of a marital relationship and family unit. Acts such as rejection of marriage, marriage fraud, and divorce undermine this social function, thereby constituting valid grounds for property restitution. From courtship to marriage, opportunity costs and risks coexist; consequently, partial restitution represents both a fundamental principle and a common normative approach. Determining the grounds and proportion of restitution constitutes a core judicial challenge in betrothal gift disputes. Thus, in specific judicial practice, it is essential to clearly define the litigation subjects, subject matter of the action, legal facts, and corresponding legal basis. Controversial issues, including the scope and quantum of restitution, as well as enforcement matters, should be adjudicated in accordance with the principle of fairness.

Keywords: betrothal gift disputes, marriage contract customs, restitution of property, principle of fairness, judicial practice

1. Introduction

An understanding of betrothal gifts necessitates an initial examination from the perspective of marriage customs. “Betrothal gifts are a concept inherent to the Chinese tradition of arranged marriage; their ultimate significance is intimately connected to the cultural perception of gender union in Chinese society” (Jin, 2019, p. 150). Indeed, betrothal gifts should be comprehended through the lens of emotional bonds. As a pre-marital ritual, betrothal gifts are typically shaped by longstanding folk customs. As a social practice, their material manifestation is merely superficial; more importantly, this material form serves to reveal their intrinsic spiritual essence—“li” (ritual propriety). “In traditional Chinese society, “li” not only regulated familial order but also shaped social order, functioning as the spiritual bond connecting the family and the state.” Consequently, the “li” inherent in betrothal gifts operates at the societal level as a marital custom.

The economic base determines the superstructure. It is noteworthy that while the groom's family provides "betrothal gifts," the bride's family customarily offers a "dowry" ([Zhao, 2024, p. 81](#)). Scholars have observed that "betrothal gifts and dowries represent the most prevalent forms of gift exchange in marital practices" ([Xie & Wang, 2026, p. 207](#)), and that "while parents may obscure the independent agency and property of the newlywed couple, they simultaneously provide a safeguard for their marital life" ([Li, 2021, p. 72](#)). In essence, prior to the establishment of a new family, both betrothal gifts and dowries act as emotional bonds between the two families. Although expressed in material form, they should not be reductively interpreted as ordinary property donations or payments. "As a marital custom perpetuated from traditional society to the present, the functions, connotations, and scope of betrothal gifts have evolved alongside social development and regional variation. Whether it can be formulated into a standardized legal concept remains a subject of debate" ([Wang, 2024, p. 34](#)). Consequently, interpreting the nature of betrothal gifts solely as a contractual obligation from a purely legal perspective is insufficiently comprehensive. In reality, beyond their material attributes, betrothal gifts also possess a spiritual dimension in everyday life—specifically, they function as a medium for social interaction. "Betrothal gifts belong to the woman, and she typically perceives them primarily as an indication of the esteem in which she is held by the man's family" ([Fu & Gu, 2024, p. 130](#)).

With respect to the examination of judicial practice issues stemming from betrothal gift disputes, prior scholars have generally equated the return of betrothal gifts in such contexts with property restitution. However, as previously discussed, betrothal gifts encompass not only material characteristics but also spiritual aspects: "Betrothal gifts embody the expectations and trust that both parties to the marriage contract maintain regarding a long-term and stable shared life" ([Li & Kang, 2025, p. 73](#)).

Regarding the legal nature of betrothal gifts, extant doctrines—such as the doctrine of rescindable gifts ([Long, 2024, p. 66](#)), the doctrine of purpose-based gifts ([Xue & Cui, 2024, p. 87](#)), and the doctrine of purpose-based performance ([Yao & Liu, 2023, p. 4](#))—frequently prove inadequate in practical application. Precisely because betrothal gift disputes extend beyond mere property conflicts, the issue of property restitution in these cases has long constituted a typical challenge in judicial adjudication. It is evident that directly equating the return of betrothal gifts with property restitution and treating them as a singular legal concept is inappropriate.

The crux of the matter lies in clearly distinguishing between the return of betrothal gifts and property restitution: the former pertains to a social issue, whereas the latter pertains to a legal issue. They should neither be conflated nor employed interchangeably in discourse. Thus, within specific judicial contexts, the law should—and indeed can—regulate the restitution of property in disputes concerning betrothal gifts, rather than merely addressing the return of the gifts themselves.

2. Judicial Challenges Surrounding Property Restitution in Betrothal Gift Disputes

Concerning betrothal gift disputes, "the initial step involves comprehending the foundational basis upon which betrothal gifts exist in contemporary society, and communication surrounding betrothal gifts is pivotal to understanding the betrothal gift marriage custom" ([Liu, 2024, p. 76](#)). Betrothal gifts exhibit both material and spiritual dimensions, and their social nature is manifested in two core social interaction functions they fulfill. "Betrothal gifts are constrained by the participants' social relationship networks; such constraints are primarily

manifested as concerns over face (lianmian), and face permeates betrothal gift marriage customs and influences human behavior" ([Hu, 2023, p. 120](#)). In practical terms, whether an engagement fails to be finalized or a relationship cannot be sustained, the underlying cause often resides in the failure of betrothal gifts to fulfill their original social functions. When betrothal gift disputes arise, particularly regarding restitution, it is necessary to consider not only the material component of the betrothal gifts but also their spiritual dimension. It is precisely for this reason that the issue of restitution in betrothal gift disputes continues to pose a significant challenge in judicial practice.

Unquestionably, betrothal gifts constitute a donation extended by the man and his family to the woman and her family. Consequently, in disputes pertaining to betrothal gifts, the issue of property restitution concerns whether the woman and her family are obligated to return the property to the man and his family, and if so, the appropriate amount to be returned. In practice, the concept of family holds profound cultural and social significance in Chinese society. Hence, within the tradition of betrothal gifts, the matter frequently involves not only the couple but also both families concerned.

In practical contexts, disputes over betrothal gifts have developed into an intricate social issue, with property restitution representing only one specific category of such disputes. Evidently, the restitution of betrothal gifts should not be simplistically equated with general property restitution; therefore, it is imperative to precisely delineate the distinctions and connections between the conveyance of betrothal gifts and property restitution.

In judicial practice, full restitution or complete non-restitution of betrothal gifts is relatively rare; partial restitution is considerably more prevalent. This assertion is supported by numerous publicly accessible judicial cases. Consequently, in betrothal gift disputes, determining the conditions for restitution and the appropriate proportions thereof constitute two pivotal judicial challenges.

2.1 Grounds for Property Return

When betrothal gifts cease to fulfill their functions of signifying an engagement or maintaining emotional ties, the obligation of the woman to return property to the man hinges on whether the conditions for restitution are satisfied. In accordance with prevailing legal opinion, if either party terminates the engagement after it is formed but prior to the wedding ceremony, this constitutes the first ground for property restitution.

Although both parties have furnished a material guarantee for the engagement through betrothal gifts, irrespective of whether the decision to terminate the engagement is justified, it effectively renders the objective of concluding the marriage unattainable once the engagement is established. Fundamentally, marriage is an act of complete autonomy that cannot be constrained by any prior agreement. Since the marriage cannot be consummated, a marital union cannot be established, thereby making it impracticable for the two parties and their respective families to fulfill the anticipated social obligations. In such instances, the social function of betrothal gifts as a commitment to emotional bonds cannot be realized, thereby rendering property restitution applicable in betrothal gift disputes ([Zunyi Intermediate People's Court of Guizhou Province, 2017](#)).

When either the man or the woman enters into marriage with the sole intent of defrauding the other party, resulting in a brief marriage that ends in divorce ([Zhu, 2024, p. 112](#)), this situation constitutes the second

ground for property restitution. In societies characterized by an imbalanced gender ratio among the marriageable population, instances of “marital fraud,” wherein women seek to acquire betrothal gifts, have indeed been prevalent. Naturally, it should be acknowledged that men may also engage in “marital fraud” for various reasons; consequently, marital fraud may be perpetrated by either party.

It is reasonable to posit that normal marriages do not entail hasty marriage followed by swift divorce. Generally, such ephemeral unions typically arise when deceptive intent exists prior to the formation of the marriage. Evidently, this pattern of rapid marriage and divorce also fails to fulfill the social function of betrothal gifts as a commitment to emotional bonding. Consequently, property restitution may also be warranted in such cases.

Two scenarios constitute the third ground for property return. In the first scenario, neither party breaches the engagement or the marriage after its formation; following the scheduled marriage, the couple does not divorce due to marital fraud. Rather, the dissolution occurs solely based on the subjective intention of one or both parties, leading to the establishment and termination of the marital relationship within a relatively brief period. The second scenario bears certain similarities: after the engagement is concluded and betrothal gifts are exchanged, the parties cohabit without formal marriage registration; however, at a certain point, one or both parties subjectively decide to end the cohabitation ([Yongzhou Intermediate People's Court of Hunan Province, 2018](#)). Collectively, these two situations constitute the third ground for the return of property.

A valid claim for the restitution of betrothal gifts requires that the man has actually provided substantial betrothal gifts to the woman; regardless of whether the case involves the termination of an engagement, marital fraud, or any other cause, this prerequisite must be satisfied. Although superficially there appear to be varied grounds for restitution, a careful analysis reveals that their essence is fundamentally consistent: specifically, the social-commitment function of betrothal gifts—as a pledge for emotional bonding—remains unfulfilled. Precisely because the betrothal gifts fail to perform their intended function and lack their core symbolic significance, they are transformed from ceremonial tokens into ordinary property, thereby creating the basis for restitution. Factors considered in determining restitution—such as the wife’s pregnancy status, economic hardship suffered by the husband due to the transfer of betrothal gifts, and the period of shared life between the couple—essentially influence, to varying degrees, the fulfillment of the betrothal gifts’ function as an emotional bond.

When a woman is capable of bearing children, this often indicates that an ongoing emotional bond objectively exists between her and the man; consequently, both families are likely to continue maintaining marital social relations under such circumstances. Clearly, in such cases, regardless of whether the couple marries or divorces, the social function of the betrothal gifts has already been realized, and thus no grounds for restitution exist.

If the man experiences financial difficulties as a result of providing the betrothal gifts—often to the extent of struggling to meet basic subsistence needs—the social function that the gifts were intended to serve loses its relevance for him. Under these conditions, the social symbolic function of the betrothal gifts may likewise be undermined, justifying potential restitution.

Shared life between a man and a woman constitutes a core manifestation of their emotional bond. Betrothal gifts, in turn, aim to establish a more stable and enduring form of emotional connection, rather than a transient or temporary one. While cohabitation may foster emotional bonding to some extent, such bonds may dissolve once cohabitation ceases. This implies that the termination of shared life similarly impairs the realization of the social function of betrothal gifts, potentially warranting restitution.

Through the foregoing analysis, it has been reasonably clarified that the basis for property restitution essentially stems from the failure of the emotional bond, which betrothal gifts are meant to sustain, to remain stable or enduring. Whether a marriage is formally established or dissolved does not in itself determine eligibility for restitution—a conclusion that remains valid.

In disputes concerning betrothal gifts, full restitution or complete denial of restitution is relatively uncommon. The most frequent outcome in such disputes is partial restitution. Within the framework of partial restitution, the specific proportion of property to be returned constitutes the most critical issue. Notably, as a significant financial transaction within the familial context, betrothal gifts are never borne exclusively by the adult individuals entering into marriage; rather, they constitute an interfamilial transfer of assets ([Hu & Song, 2022, p. 11](#)).

2.2 Proportion of Property Restitution

The determinants of the refund rate for betrothal gifts encompass the value of the gifts, the circumstances of the parties involved—such as the duration of cohabitation and whether children have been born—as well as the degree of fault attributable to each party ([Teng, 2026, p. 203](#)). In judicial practice, partial restitution of betrothal gifts is relatively common in related disputes. This outcome is not contingent upon the type or market value of the property, but rather on its inherent nature. When property is transferred in material form as betrothal gifts, it differs fundamentally from ordinary gifts. The property implicated in betrothal gifts serves a specific social function, the fulfillment of which itself necessitates a certain quantum of assets. For instance, engagement entails material contributions not only from the male but also from the female party ([People's Court of Yuzhong County, Gansu Province, 2017](#)).

First, prior to the engagement, both the couple and their respective families must undertake appropriate preparations—such as arranging the requisite monetary gifts, inviting relatives and friends from both sides, and managing other engagement-related matters—all of which impose tangible financial burdens on both parties. While it may appear that the female contributes minimally when betrothal gifts are presented by the male during the engagement ceremony, this perception does not reflect the actual distribution of contributions.

Under normal circumstances, once the engagement is formalized, preparations for the subsequent wedding proceed. “The arrangement of betrothal gifts and dowry is not a unilateral decision made by either parents or children; rather, it results from thorough consultation, mutual understanding, and intergenerational coordination” ([Lin & Ji, 2024, p. 92](#)). For the female’s family, a central task is the preparation of the dowry, which frequently requires substantial financial expenditure. Particularly against the backdrop of contemporary social progress toward gender equality, in certain cases, the value of the dowry provided by the female’s family may far exceed that of the betrothal gifts furnished by the male’s family.

More notably, many dowries comprise items with relatively distinct personal attributes. These attributes often render such objects “special items,” whose symbolic or affective value substantially surpasses their economic worth. Consequently, neither betrothal gifts nor dowries can be assessed solely in monetary terms. The fundamental reason lies in the substantial emotional investment inherent in both practices. Beyond tangible, quantifiable material contributions, throughout the entire process from engagement to marriage, both families make considerable non-pecuniary investments—such as temporal costs and exposure to potential risks.

Thus, betrothal gifts constitute only a portion of the total expenses incurred by both parties in the pursuit of marriage. Setting aside moral considerations and focusing purely on property issues, the resolution of such disputes cannot be reduced to a binary choice between full restitution and non-restitution.

As the adage goes, romance entails risks, and marriage warrants prudent deliberation. The trajectory from courtship to engagement, and thence to marriage, is often protracted and subject to numerous unpredictable variables. Compared with ancient times, such variables are now more numerous and more likely to materialize. In contemporary society, the freedom of love and autonomy in marriage are frequently emphasized; as a result, the dissolution of engagements or marriages has become relatively commonplace. Under typical circumstances, emotional affinity, rather than material considerations, serves as the primary basis for mutual attraction between men and women. Material goods function merely as a medium for the expression of such emotions, whereas emotional connection constitutes the essence of the matrimonial union. In practice, processes such as dating, engagement, and marriage entail certain risks for both individuals involved and their respective families. These risks encompass not only emotional investment but also financial or property commitments. Despite these inherent risks, why do individuals continue to harbor expectations toward marriage? One plausible explanation lies in the applicability of the principle of shared risk and shared benefit, even within deeply personal social relationships such as marriage.

It is important to note, however, that the concepts of “risk” and “return” in this context cannot—and should not—be interpreted solely from an economic perspective, as the essence of marriage is rooted not in material exchange but in spiritual alignment. While tangible assets may be quantified, intangible emotions resist straightforward measurement. If the loss of property constitutes a form of detriment, can the loss of emotional investment not be similarly regarded? Furthermore, within conventional social norms, whether in the context of engagement or marriage, men often receive greater leniency in their relational choices, whereas women are subject to considerably stricter scrutiny. This disparity largely originates from the enduring societal bias favoring male offspring. Although contemporary society exhibits a relatively high degree of acceptance toward women’s autonomy in terminating engagements or marriages, the objective repercussions of such decisions—particularly for women—remain substantially more significant than those experienced by men, irrespective of subjective perceptions.

Accordingly, “if the refusal of marriage is initiated by the man, the woman is not obliged to return the betrothal gifts, which serve as compensation for the loss of her youth; if the refusal is initiated by the woman, she shall appropriately return the betrothal gifts” ([Mou, 2023, p. 87](#)). In practice, regardless of which party initiates the termination, such decisions inevitably exert considerable impact on the woman and her family. Human existence is embedded within social interactions; evaluations from others may sometimes function as a form of social validation, while at other times, they may impose a burdensome cost.

The preceding analysis has demonstrated that, owing to the principle of risk allocation, the restitution of property can be neither fully accomplished nor entirely exempted. In comparison with the relevant judicial interpretations under the Marriage and Family Section of the *Chinese Civil Code*, the *Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Cases Involving Betrothal Gifts* (hereinafter referred to as the *Provisions on Betrothal Gift Disputes*) has acknowledged this pragmatic reality and incorporated corresponding provisions accordingly ([Supreme People's Court, 2024, arts. 5–6](#)).

In practice, the central difficulty in disputes over property restitution lies in determining an appropriate restitution ratio. “In China, judicial decisions regarding the return of betrothal gifts often reveal inconsistencies across similar cases, with restitution ratios ranging from zero to full restitution; even rulings issued by the same court or the same collegial panel may exhibit significant discrepancies” ([Huang, 2015, p. 62](#)). Once betrothal gifts lose their original social function, they are converted into assets subject to restitution; however, given the inherent nature of “li”—a form of ethical self-regulation within interpersonal relations—partial restitution represents the norm, whereas full restitution or complete non-restitution can only constitute exceptions to this general principle.

3. Judicial Practice in Property Restitution Cases

Having acquired a more fundamental understanding of betrothal gifts at the level of “li”, we may now return to the practical context to examine issues of property restitution arising from betrothal gift disputes in judicial practice. “With respect to betrothal gifts and their restitution, China’s relevant civil legislation contains no explicit provisions, resulting in a legislative gap” ([Zhang, 2024, p. 920](#)). Specifically, when a betrothal gift dispute proceeds to litigation, who qualifies as a plaintiff or defendant with legal standing? What categories of gifts may be classified as the subject matter of the lawsuit? “From a traditional Chinese perspective, marriage has never been merely a union between a man and a woman; rather, it involves two clans and their respective extended families” ([Qixian County People's Court of Henan Province, 2024](#)). Each of these points remains contentious—constituting the first set of issues. In litigation documents, clear grounds and claims must be articulated; which factual occurrences in daily life may be identified as legal facts, and on what legal basis may they be adjudicated? These questions also remain disputed—forming the second set of issues. During the adjudication of betrothal gift disputes, how can the judiciary balance the external logic and internal values of judgments by integrating emotional, rational, and legal considerations? This represents yet another point of contention—constituting the third issue.

In response to these controversies, both academic and practical circles have undertaken extensive efforts in recent years. Over the past years, the Chinese government has repeatedly issued “Central Document No. 1” to outline overarching governance requirements concerning betrothal gifts and related matters. The Marriage and Family Section of the *Chinese Civil Code*, its corresponding judicial interpretations, and the newly implemented *Provisions on Betrothal Gift Disputes* have collectively established a legal framework for resolving property restitution issues arising from betrothal gift disputes. Scholars have also advanced various academic viewpoints, furnishing theoretical analysis and interpretation of the phenomena and controversies

observed in judicial practice. Against this backdrop, it remains evidently necessary to conduct a judicially oriented discussion on the issue of property restitution in betrothal gift disputes.

3.1 The Legal Subjects and Object of Litigation

The emergence of property restitution issues in betrothal gift disputes may appear to originate from superficial factors such as broken engagements, marital fraud, or divorce. However, upon examining the underlying causes, it becomes evident that the core issue lies in the inability of betrothal gifts—initially conceived as a commitment mechanism for emotional bonds—to effectively sustain their function in facilitating social interactions. The failure of the parties to formalize marriage or maintain cohabitation merely manifests the dissolution of this social connection. Subsequently, the anticipated or established marital alliance between the two families is compromised, thereby terminating the social linkage between them. Moreover, the moral or legal obligations of one party toward the parents of the other party are impacted, and the social relations founded on the marital bond cease concomitantly with the cessation of these obligations.

Consequently, from this vantage point, the litigants in betrothal gift disputes pertaining to property restitution encompass not only the man and woman directly involved but also their respective families. Generally, both the couple and their parents may theoretically qualify as legal parties in such litigation ([Weishi County People's Court of Henan Province, 2018](#)). The *Provisions on Betrothal Gift Disputes* also provide pertinent considerations and elucidations on this matter ([Supreme People's Court, 2024, art. 4](#)). In accordance with this rationale, if the relevant parties within the man's or woman's family achieve a consensus regarding litigation, it is virtually indisputable that they will participate as co-litigants. Nevertheless, a critical question emerges: in instances where the man, woman, and their parents fail to reach a familial consensus on initiating litigation, whose perspective should take precedence?

In contemporary society, individuals primarily exist as autonomous entities before integrating as constituent elements of diverse social relationships. Based on prevailing conceptions of human nature, individuals possess independence in both cognition and action. The notion of "independence" herein denotes the mutual autonomy of rights, obligations, and responsibilities within the legal framework. Regarding property restitution in betrothal gift disputes, the woman and man themselves constitute the most directly implicated parties, aligning with the principle of marital autonomy.

Therefore, the answer to this question is relatively clear. During the litigation process, if either party disagrees with their parents' opinions, the opinion of that party shall prevail. Furthermore, regarding the issue of property restitution in betrothal gift disputes, the principle of *ex post facto* (the rule that no double jeopardy applies to the same matter) shall apply. Whether choosing to file a lawsuit or not, both parties can only make one binding decision. This restriction reminds both parties to approach litigation with caution; it not only helps reduce judicial costs but also contributes to the stability of social relations.

In disputes over the return of property related to betrothal gifts, the legal subject matter of litigation is the specific amount of property that needs to be returned. In practice, starting from the very beginning of the romantic relationship between a man and a woman, material gifts are often exchanged as a way of expressing affection. Generally speaking, such material gifts derived from daily emotional interactions are just one way to convey affection.

From a legal perspective, this type of gift is no different from an ordinary gift. In such cases, regardless of the value of the property, when one party offers a gift and the other party accepts it, the gift becomes legally valid. Since this is an expression of emotion, it often reflects the donor's true intention, and such an expression of intention is rarely revocable ([People's Court of Yanhu District, Yuncheng City, Shanxi Province, 2019](#)). Therefore, this general category of gifts clearly should not be the subject matter of return claims in betrothal gift disputes. Apart from the aforementioned daily emotional exchanges, the most prominent distinct type of gift is the betrothal gift provided during the process of entering into a marriage contract. While there is no doubt that the giving of betrothal gifts should be regarded as a transfer of property in the form of a gift, it is inappropriate to interpret it legally as a conditional or purpose-based gift.

Betrothal gifts serve the unique social functions of certifying the engagement contract and maintaining emotional bonds, which are not present in the general legal concept of gift-giving. Accordingly, betrothal gifts are a form of social gift-giving practice but do not fit the definition of ordinary legal gifts. As a type of gift-giving, betrothal gifts must be understood in the context of the establishment of an engagement contract. Of course, this does not mean that only gifts given by the man to the woman at the time the engagement is formalized can be called betrothal gifts.

In real life, the man may prepare all betrothal gifts in advance and deliver them before the betrothal agreement is reached; alternatively, he may negotiate with the woman to confirm the composition of each betrothal gift, and deliver them in a lump sum or in installments during the period from betrothal to the wedding ([Huai'an Intermediate People's Court of Jiangsu Province, 2017](#)). Of course, between betrothal and the wedding, adjustments to the amount of betrothal gifts—such as reductions or increases—may also occur. Regarding this issue, the "Provisions on Disputes Concerning Betrothal Gifts" have put forward corresponding considerations and clarifications ([Supreme People's Court, 2024, art. 3](#)).

In practice, whether betrothal gifts are given as a single payment or in installments, or whether their value increases or decreases, a mutual consensus must be reached by both parties and their respective families to clearly define the nature of such material gifts as betrothal gifts. When material items provided as part of a financial arrangement fall into this category, they may constitute the subject matter of litigation over the return of betrothal gifts in a related dispute. As for whether a gift requested by one party from the other on the grounds of an engagement or marriage constitutes the subject matter of litigation, the key factor is whether the item objectively possesses the characteristic nature and function of betrothal gifts. If so, it may be deemed a material gift falling within the category of betrothal gifts; otherwise, it should be classified as a general gift under the law. The law aims to preserve the sanctity of marriage ([Supreme People's Court, 2024, art. 2](#)); consequently, such requests are legally prohibited ([Chinese Civil Code, 2020, art. 1042](#)); thus, the restitution of such gifts is generally permissible.

3.2 Legal Facts and Basis for Claims

In judicial practice, the principle of "being grounded in facts and guided by law" is consistently upheld, and this principle is uniformly applied to disputes concerning the restitution of betrothal gift property. Within the broader social context, the rationale for restitution in these cases stems from the inability of betrothal gifts to fulfill their core social function of sustaining an emotional bond. As material assets constituting a betrothal

gift, they fail to satisfy the expectations of either party: namely, the expectation that the couple will solidify their emotional connection through marriage, or the expectation that the man's family will maintain emotional ties via the matchmaker.

Given that this anticipated outcome is no longer attainable, the material property comprising the betrothal gift loses its ceremonial character and retains only its guaranty function. Crucially, once the commitment underpinning the emotional bond can no longer be honored, the property securing this commitment ceases to serve any assurance purpose. Consequently, there exists both a foundation and a necessity for the return of such property. In practice, primary reasons for the failure of emotional commitments include mutual cancellation of the engagement by the couple, instances of marriage fraud, or the cessation of cohabitation. The first two scenarios, wherein the emotional bond cannot be sustained, are objective in nature. The case of terminated cohabitation is more contentious, as it is challenging to ascertain whether the failure to maintain the emotional bond arises from subjective or objective factors.

Pursuant to the three scenarios outlined in the Supreme People's Court's judicial interpretation on the return of betrothal gifts, the requirement that the emotional bond cannot be sustained must satisfy the criterion of objectivity ([Supreme People's Court, 2020, art. 5](#)). Beyond the two objective and verifiable legal facts—that the betrothal gift, as a commitment to sustain an emotional connection, cannot be fulfilled, and that the emotional bond cannot be maintained—an additional requisite legal fact must be met: the property constituting the betrothal gift, which no longer functions as a guarantee, must factually persist. If, owing to the limited material value of the betrothal gift, it has been expended as necessary cohabitation expenses prior to the dispute, it is highly probable that the remaining net value of the property will be zero or negative. Under such circumstances, restitution is unwarranted.

Perhaps due to the inherent complexity of betrothal gift disputes, neither the Marriage and Family Chapter of the *Chinese Civil Code* and its corresponding judicial interpretations, nor the specifically enacted *Provisions on Betrothal Gift Disputes*, explicitly furnish a clear legal basis for addressing property restitution in such cases. In accordance with the stipulations of the *Chinese Civil Code*, when adjudicating civil disputes, statutory law takes precedence over customary practice, with public order and good morals serving as the delimiting boundary ([Chinese Civil Code, 2020, art. 10](#)). Although Chinese civil law does not expressly provide that legal principles may serve as a basis for adjudication—a common practice in other jurisdictions—there remains scope for the application of fundamental civil law principles in this context.

According to the relatively predominant theory of claim basis analysis, the legal basis for property restitution in betrothal gift disputes is presently insufficiently delineated. Scholars have undertaken substantial exploratory research to address this lacuna. The first perspective contends that “within the framework of creditorist formalism, with the exception of claims for restitution of consideration—which in most instances constitute creditor's claims—and claims for restitution of specific property—which are uniformly real right claims” ([Long, 2024, p. 73](#)), the legal basis for a claim may be constructed either under creditor's rights or real rights, depending on the specific category of tangible property comprising the betrothal gifts. Although this approach may appear more conducive to facilitating the restitution of property, such is not actually the case. Once tangible property is employed in the context of betrothal gifts, it cannot be strictly confined to the category of specific objects.

In reality, the tangible property implicated in betrothal gifts ought to be comprehended as a relationship between the individual and the object; only through this lens can the social-interactive function of betrothal gifts be adequately explained. Moreover, the exercise of specific property rights over such assets is neither fixed nor immutable; given that these gifts also operate as safeguards for emotional bonds, the conversion of the specific property into monetary form is permissible ([Shengzhou Municipal People's Court of Zhejiang Province, 2017](#)).

The second perspective maintains that concerning betrothal gifts, “if delivery has been completed, yet the purpose thereof remains unfulfilled, the man shall acquire a claim for restitution based on unjust enrichment arising from the failure to achieve said purpose” ([Yao & Liu, 2023, p. 5](#)). From this standpoint, characterizing the property involved in betrothal gift disputes as a case of unjust enrichment under the law, and subsequently relying on statutory provisions governing unjust enrichment to ground a claim for restitution, may appear logically sound; however, this approach is not entirely tenable. Pursuant to the provisions of the *Chinese Civil Code*, obtaining benefits absent a legal basis constitutes unjust enrichment ([Chinese Civil Code, 2020, art. 985](#)).

The customary practice of betrothal gifts as a marital tradition cannot be simplistically construed as the female recipient deriving benefit merely through an increase in personal assets corresponding to a decrease in the man’s assets; such an interpretation would evidently reduce the understanding of betrothal gifts to a purely material dimension. The tangible property conferred as betrothal gifts constitutes a marital custom rather than a baseless legal transaction; consequently, construing it as unjust enrichment lacks a solid logical foundation.

In contrast to the aforementioned perspectives, an examination of the social function of betrothal gifts—alongside the underlying rationales and proportions governing property restitution—consistently reveals the operative principles of good faith and equality. Good faith functions as a safeguard for ethical conduct, thereby reinforcing the solemnity of engagement and matrimony; equality ensures a balance of rights between the man and the woman, thus preserving the autonomy inherent in the betrothal and marital process.

Building upon good faith and equality, fairness constitutes the core essence. The principle of fairness, derived from these twin concepts, offers a more appropriate legal foundation for property restitution in betrothal gift disputes. Owing to its abstract nature, the principle of fairness is capable of effectively integrating both customary practices and pertinent specific legal rules.

3.3 Contentious Issues and Judicial Considerations

Using “restitution of betrothal gifts” as the primary search term, an incomplete statistical analysis of extant civil judgments from the Beida FaBao database indicates that in disputes concerning betrothal gifts, no adjudication has ordered full restitution of the property, nor has any case mandated complete non-restitution. Rather, courts have consistently ordered partial restitution—specifically, the return of a proportionate share of the property.

In judicial practice, the interpretation of “betrothal gifts” exhibits regional variations, with local marriage customs constituting a critical reference for delineating the scope of property restitution in disputes over such gifts. Among local courts, divergent perspectives exist concerning the legal parties accountable for restitution:

some rulings designate the female party and her parents as joint obligors, whereas others hold only the female party responsible. Moreover, in referencing legal authorities for these cases, the most commonly cited sources include the *Provisions on Betrothal Gifts Disputes*, the Marriage and Family Chapter of the *Chinese Civil Code*, and the Interpretation (I) of the Marriage and Family Chapter of the *Chinese Civil Code*. Notably, since the promulgation and implementation of the *Provisions on Betrothal Gifts Disputes*, the majority of recent judgments have invoked these provisions.

Although courts do not formally adopt the principle of fairness as the primary legal norm guiding adjudications, the "This Court Holds" segment of judicial reasoning frequently entails the application and interpretation of this principle. All factors considered in determining the restitution ratio—such as whether the parties married or cohabited, and whether fault or childbearing circumstances are present—represent specific manifestations of the fairness principle. In the extensive judicial practice of adjudicating betrothal gift disputes, courts have widely employed the principle of fairness to resolve contentious issues in their rulings.

3.3.1 Scope of Property Restitution

When a court determines that property restitution is warranted, the initial step involves delineating the scope of such restitution. A central issue in this determination is the distinction between ordinary gifts and those constituting betrothal gifts. Owing to regional disparities in marriage customs, courts in different jurisdictions may arrive at divergent conclusions even under identical factual circumstances. For litigants who have initiated proceedings, their primary objective is typically to maximize their own interests. Nonetheless, courts must comprehensively acknowledge the nature and function of betrothal gifts and, when evaluating the property claimed by the parties, classify and determine its status based on prevailing local marriage customs. The judicial interpretation of the Marriage and Family Chapter of the *Chinese Civil Code* explicitly stipulates that such payments are made in accordance with customary practices ([Supreme People's Court, 2020, art. 5](#)).

The determination of whether property constitutes a betrothal gift should not be confined to its nominal designation; rather, the crucial consideration is whether the property fulfills the social function of establishing the betrothal contract and sustaining the emotional bond between the parties. Stated differently, does the property conferred by the man and his family upon the woman merely signify an expression of affection, or does it embody a commitment to maintaining the emotional engagement between the parties? This perspective diverges from the interpretation offered in the *Provisions on Disputes Concerning Betrothal Gifts*, which posits that neither the amount nor the value of the property should serve as a criterion for classifying it as recoverable property ([Supreme People's Court, 2024, art. 3](#)). This is because, fundamentally, betrothal gifts in social contexts prioritize their spiritual dimension over their material aspect. Particularly in contemporary society, the economic function of betrothal gifts has been largely supplanted by their social role.

Interpreting betrothal gifts solely as a mechanism to secure marriage is generally imprecise; in essence, betrothal gifts function to establish a stable emotional bond between the two families through marriage—encompassing both the spousal relationship and the in-law relationship. Therefore, property claims predicated upon marriage as a precondition do not fall within the ambit of property restitution recognized under this framework. On this matter, the *Chinese Civil Code* provides explicit stipulations that ought to be applied

directly; it is not appropriate to further re-categorize such claims as betrothal gift disputes ([Chinese Civil Code, 2020, art. 1042](#)).

3.3.2 Quantum of Property Restitution

The quantum of property restitution depends on a specific restitution ratio, and no fixed criterion governs its determination. The judicial interpretation pertaining to the Marriage and Family Section of the *Chinese Civil Code* enumerates the circumstances under which property may be returned in betrothal gift disputes, encompassing three scenarios: (1) where marriage registration has not been completed; (2) where marriage registration has been completed but the parties have not cohabited, and divorce is granted; and (3) where betrothal gifts were conferred prior to marriage, resulting in financial hardship for the donor ([Supreme People's Court, 2020, art. 5](#)).

Although this interpretation appears straightforward in formulation, theoretically all property classified as betrothal gifts should be fully restituted when the marital relationship cannot be sustained. In practice, however, full restitution is seldom attained—a conclusion corroborated by an examination of a substantial body of relevant judicial decisions.

Failure to register a marriage primarily refers to situations where the marriage is terminated before its formal conclusion, whereas failure to cohabit and the resultant financial hardship arise within the context of a registered marriage that ends in divorce. In practice, irrespective of which of the above scenarios applies, the factual circumstances are often complex. The necessity of first clarifying the nature of the “ritual” dimension of betrothal gifts, and subsequently elucidating the function of their “property” dimension, stems from the fact that without a comprehensive understanding of their nature and function, it is impossible to apprehend the underlying reason why the full value of betrothal gift property cannot invariably be restored.

Generally speaking, regardless of whether the parties have completed marriage registration, both the man and the woman, as well as their respective families, inevitably make corresponding emotional and material contributions during the marriage preparation process—a point beyond dispute. Consequently, in the course of betrothal gift restitution, both parties should bear the risk costs arising from the failure to sustain the relationship. In judicial practice, a more thorough and nuanced assessment of the woman’s circumstances is warranted compared to that of the man. Within the context of betrothal gift restitution, legal doctrine should not only emphasize formal fairness but also accord priority to substantive fairness. This principle is already clearly embodied in the “Provisions on Disputes Concerning Betrothal Gifts” ([Supreme People's Court, 2024, art. 5](#)).

3.3.3 Enforcement of Property Return

In contemporary judicial practice, certain courts may designate the parents of the woman as subjects of enforcement in judgments pertaining to the restitution of betrothal gifts. This practice is undoubtedly contentious. Although betrothal gift disputes are often imbued with emotional considerations, and courts do account for the practical implications arising from such affective factors in their adjudicatory processes, it must be emphasized that the return of betrothal gifts constitutes a civil property dispute. Consequently, the principle of private law autonomy should be upheld, and the imposition of liability by the court must remain

confined within statutory boundaries. Legally, there exists insufficient legitimate basis for classifying the woman's parents as joint and several debtors.

Fundamentally, betrothal gifts are conferred when both parties intend to enter into a marriage contract. The issue of restitution arises precisely because the parties are unable to objectively fulfill their commitment to sustain the marital relationship. The crux of the dispute lies with the engaged parties themselves. Although, in most instances, both betrothal gifts and dowries represent financial contributions provided by the respective parents, such parental actions should be construed as expressions of affection toward their offspring. While parents may participate as legal parties in litigation, this does not inherently qualify them as enforcing parties for the restitution of such property.

It is essential to clarify that, although betrothal gifts may superficially appear to be directed toward the woman's parents, they are, in practice, bestowed upon the woman herself—a distinction that has become increasingly salient in contemporary society. Accordingly, only the female party should be recognized as the enforcement subject for property restitution in betrothal gift disputes. Solely under this arrangement can judicial rulings facilitate the expeditious resolution of such disputes, thereby optimizing the social outcome by conclusively addressing the legal conflict between the male and female parties on both emotional and material dimensions.

4. Conclusion

From the judicial interpretations of the Marriage and Family Chapter of the *Chinese Civil Code* to the *Provisions on Disputes over Betrothal Gifts*, it is evident that the Supreme People's Court acknowledges the complexity of betrothal gift disputes and has endeavored to adopt a semi-open framework to furnish lower courts with more effective adjudicatory guidance. Nevertheless, academic discourse continues to harbor controversies regarding the nature of betrothal gifts, the scope of property restitution, and the appropriate proportionality thereof. Although scholars have proffered numerous exploratory discussions on the legal architecture of betrothal gifts, their analyses predominantly emphasize the “economic” dimension of this custom, often neglecting its “social” dimension. In contrast to legal scholars, researchers from other disciplines frequently attain a more nuanced understanding of betrothal gifts.

Therefore, it is imperative to initiate inquiry from the perspective of traditional marriage customs. Only by comprehending the essence of betrothal gifts and the underlying logic of related disputes can the analysis be seamlessly extended to the realm of legal application, thereby furnishing a coherent conceptual framework for judicial practice in handling specific cases. Beyond the specific viewpoints and conclusions delineated in this paper, the introduction of a novel reasoning paradigm—fundamentally distinct from prior approaches—holds greater significance, potentially constituting the true contribution of this research.

Competing Interests

I disclose any financial or non-financial conflicts of interest related to the publication of the manuscript.

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