

## CRITERIA AND INDICATORS OF LEGAL EQUALITY AS THE BASIS OF SOCIAL JUSTICE IN A TRANSITIONAL RULE OF LAW STATE

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### **Abstract**

The article examines a complex philosophical and legal problem of verifying legal equality and social justice within a transitional society. The author analyzes the dialectical contradiction between formal-legal equality and the demands of distributive justice institutionalized in the process of building a democratic rule of law state. The research is methodologically grounded in systemic-structural, comparative, and axiological approaches.

The primary outcome of the study is the development of the author's three-component system of legal equality criteria (institutional-legal, distributive-legal, and procedural), alongside qualitative and quantitative indicators that allow measuring the extent to which the gap between an abstract legal norm and social reality is bridged. The conclusion argues that the minimization of legal nihilism and the sustainability of democratic transition directly depend on the convergence of formal equality and real social justice through the mechanisms of compensatory law.

### **Keywords**

transitional state, legal equality, social justice, democratic transition, institutional design, rule of law state, verification criteria, legal nihilism, compensatory law, legitimacy of institutions.

**Introduction.** At the current stage of global state-legal transformations, the construction of a genuinely democratic rule of law state faces a structural crisis regarding the legitimacy of state institutions. This crisis is particularly acute in transitional societies, where the declaration of legal norms outpaces the actual transformation of social relations. In this context, the classical categories of the philosophy of law and social philosophy - "legal equality" and "social justice" - are often replaced by populist slogans or viewed in isolation from one another. The absence of clear, verifiable criteria and indicators to measure the consolidation of legal equality as the foundation of social justice creates a methodological vacuum.

This obstructs an objective assessment of the effectiveness of legal reforms and prolongs the destructive processes of legal nihilism within society.

The problem of the relationship between equality and justice traces back to the ancient tradition (Aristotle) and finds its classical embodiment in the Modern era (I. Kant, J. Locke). In contemporary social-philosophical and legal thought, the foundational guidelines of distributive and procedural justice are set by the works of J. Rawls, R. Dworkin, J. Habermas, and A. Sen. However, the specificity of transitional legal systems, characterized by legal polymorphism and institutional instability, necessitates a rethinking of these concepts to allow for the empirical verification of theoretical models.

**The aim of the study** is the theoretical and methodological substantiation of a system of criteria and indicators of legal equality, serving as an indispensable foundation for implementing the principles of social justice in a transitional democratic state.

To achieve this goal, the following **tasks** have been set:

1. To explicate the philosophical and legal essence of legal equality and social justice within the context of the paradox of transition.
2. To differentiate the verifiable criteria of legal equality.
3. To substantiate the system of qualitative and quantitative indicators of the effectiveness of a rule of law state.

**The methodological basis** of the study comprises the principles of dialectical logic, which allowed for the analysis of equality and justice in their unity and contradiction. Systemic-structural and institutional approaches were applied to analyze the legal system as an integrated mechanism. The comparative method was used to identify general patterns in the functioning of transitional states.

**Main part.** Within the framework of orthodox legal thinking, legal equality is interpreted as a formal-legal category reducible to the principle of isonomy - the equality of all subjects before the law and the courts, regardless of their substantial (social, economic, ethnic) characteristics. In this reading, law acts as an abstract, universal, and equal scale applied to factually unequal individuals. The philosophy of law postulates that formal equality is the core of freedom, as it excludes arbitrariness and guarantees the predictability of the legal space.

In turn, social justice represents an axiological macro-category that determines the legitimacy of the legal system. Justice serves as a measure of proportionality between action and retribution, rights and duties, merits and their public recognition. While legal equality requires identity of regulatory impact (a formal approach), social justice appeals to equivalence and the substantial fulfillment of human existence (a material approach).

Under the conditions of forming a democratic rule of law state, a fundamental dialectical contradiction emerges, designated in social philosophy as the "**paradox of transition.**" The essence of this paradox is as follows: in transitional societies, the literal and rigid application of the principle of formal-legal equality under conditions of deep initial socio-economic stratification does not eliminate, but rather consolidates and deepens social injustice.

Formally equal access to legal institutions for subjects possessing radically disparate economic, cognitive, and social capital turns legal equality into a fiction (a simulacrum).

To overcome this paradox, a rule of law state requires a shift from abstract isonomy to the concept of **compensatory (protectionist) law**. Legal equality must function not merely as a prohibition of discrimination (negative equality), but as a positive obligation of the state to level initial opportunities (positive equality). Thus, legal equality serves as an immanent basis for social justice only when it is understood as *equality of opportunity*, rather than strictly as *equality of legal restrictions*. Optimizing this balance determines the stability of the democratic transition and prevents the system from sliding into authoritarianism or social anomie.

Вот полный, развернутый перевод Второго раздела, объединенный в единый логический текст без подразделов, с абсолютным сохранением исходной научной плотности и объема.

Translating the theoretical constructs of "legal equality" and "social justice" into the plane of practical analysis requires the development of verifiable criteria, which in this study are understood as objective grounds for assessing the quality of the functioning of legal institutions under conditions of systemic transition. It appears methodologically necessary to differentiate three interconnected criteria: institutional-legal, distributive-legal, and procedural.

The first, the institutional-legal criterion, determines the degree of autonomy, stability, and accessibility of the formal-legal infrastructure of the state. In a transitional society, institutional design often suffers from dysfunctions caused by the shadow influence of the executive branch or oligarchic groups; therefore, verification under this criterion includes an assessment of real judicial autonomy, the protection of the judicial system from discretionary interference from the outside, as well as the transparency of the procedures for appointing and dismissing judges. This also encompasses the inclusiveness of justice - its physical, financial, and informational accessibility for all strata of the population, supported by a developed system of *pro bono* assistance and public advocacy. Legal equality remains latent if the material costs of protecting a violated right exceed the

transactional costs of the legal infraction itself, which transforms the court into a prerogative accessible exclusively to economically dominant agents.

The second, the distributive-legal criterion, captures the capacity of the legal system to act as an instrument for the fair distribution of resources, goods, and obligations with the aim of mitigating initial inequality. Within the framework of transitional statehood, this criterion acquires a human rights protection and compensatory character, and it is verified through the presence of effective anti-discrimination legislation, as well as the legal consolidation of quotas, preferences, and subsidies for vulnerable social groups to level their opportunities in the spheres of education or labor. An important component here is the proportionality of the tax-legal burden, which prevents the shifting of the fiscal burden onto the least protected strata. This criterion allows for tracking the transition of the legal system from passive (negative) equality to the active (positive) provision of social justice.

Finally, the third, the procedural criterion, focuses attention on the dynamic side of law - the processes of lawmaking and law enforcement, since legal equality is impossible without equal access to the formation of the very will of the legislator. This criterion is verified through the analysis of the transparency and participatory nature of lawmaking, the openness of legislative initiatives, and the mandatory nature of public discussion procedures and the evaluation of draft laws for corruption-inducing factors. No less vital here is the symmetry of law enforcement, meaning the uniformity of legal practice that excludes a selective approach toward various social groups, as well as adherence to the principle of legal certainty (*lex certa*) - the clarity and consistency of statutory acts, which excludes the possibility of their dual interpretation by the law enforcer. The deployment of these criteria in their systemic unity allows for moving from qualitative characteristics to the formulation of concrete indicators of the rule of law state.

Вот полный, развернутый перевод Третьего раздела, объединенный в единый логический текст без подразделов, выполненный в строгом академическом стиле и без потери исходного объема.

While criteria define the qualitative directions of analysis, indicators represent specific operationalized variables - quantitative and qualitative markers that allow for the empirical registration of the degree to which a transitional system approaches the ideal of a democratic rule of law state. For methodological purposes, the indicators of legal equality as the basis of social justice must be divided into two interconnected groups: objective-institutional and subjective-axiological.

The first group, objective-institutional indicators, relies on verifiable statistical data, results of monitoring law enforcement practice, and international comparative indices. Key among them is the coefficient of deviation in judicial decisions (the index of legal symmetry), which reflects the ratio of acquittals to convictions, as well as cases won against state organs initiated by ordinary citizens, since a high proportion of rulings in favor of the state in typical disputes indicates an institutional imbalance. This group also includes the index of legal aid accessibility (*Legal Aid Index*), which tracks the proportion of citizens entitled to free legal assistance financed by the budget, and the level of regulatory contradiction, reflecting the frequency of amendments made to foundational codes, which directly impacts the principle of legal certainty. The dynamics of a state's positioning in international metrics, particularly in the *Rule of Law Index* by the World Justice Project, especially regarding the sub-indices of civil and criminal justice, are of equal significance.

The second group, subjective-axiological indicators, captures the mental dimension of society - how legal reality is perceived by the direct subjects of law, without which any legal reform risks remaining an exclusively superficial declaration. The primary indicator here is the level of latent and overt legal nihilism, identified through sociological markers of citizens' readiness to resolve disputes outside the legal framework via corrupt channels or informal institutions. This group also encompasses the index of institutional trust in the judicial system and law enforcement agencies, as well as the subjective perception of discrimination, measured through the percentage of the population reporting the infringement of their rights based on economic or social attributes when interacting with state structures.

The empirical analysis of transitional systems based on the proposed matrix of indicators clearly demonstrates that a critical gap between the formal-legal norm and social practice serves as the main trigger for destabilizing a democratic transition. When citizens perceive selectivity in the application of the law, law loses its universal value, transforming into an instrument of suppression in the hands of dominant elites, which inevitably deconstructs the social contract and blocks the formation of a genuine rule of law state.

**Conclusion.** The conducted social-philosophical and theoretical-legal analysis allows for the conclusion that legal equality and social justice exist in a state of permanent dialectical tension within a transitional society. Any attempt at the literal implementation of abstract, formal-legal equality without accounting for the deep initial stratification of the population inevitably leads to the consolidation of social injustice, giving rise to the paradox of transition. Overcoming this

contradiction requires a qualitative evolution of the legal system from passive negative equality to active positive equality through the introduction of compensatory law mechanisms that level the initial opportunities of citizens. The system of criteria and indicators developed in this study forms a rigorous methodological framework, allowing researchers to move away from declarations and empirically measure the actual progress of state-legal modernization.

To optimize the legal policy of a transitional state, it is deemed necessary to introduce a mandatory procedure for assessing the regulatory impact of all draft laws regarding their effect on the level of social inequality. Parallel to this, a radical increase in the transparency of case distribution within courts and the expansion of free legal aid institutions are required, which will help balance the opportunities of the parties in the legal process. Finally, overcoming legal nihilism must be achieved by shifting the focus in legal education from the passive informing of citizens about their duties to training them in practical mechanisms for protecting their subjective rights. The implementation of these measures directly contributes to minimizing the gap between the legal norm and social reality, thereby ensuring the sustainability of the democratic transition and the legitimacy of the institutions of the emerging rule of law state.

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