

# The Economic Foundations of the Rule of Law in the Russian Federation

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**Abstract:** This study, based on the economic and legal metrics of the Russian Federation, considers the possibility of implementing the concept of the rule of law in the modern world. The study emphasises the issue of the rule of law in any country being directly related to the problem of redistribution of public goods. In many ways, this can be considered an example of how economic stability ensures legal stability. The research methodology includes a dialectical method, which allowed to ensure compliance with the principles of scientific knowledge. The study shows the dynamics of ensuring human rights, the distribution of income and expenses in society over different periods in the history of the Russian Federation. In this regard, the authors come to the conclusion that the perception and functions of the concept of the rule of law will soon deviate from classical liberal values towards the basic ideas of social equality and justice.

**Keywords:** Legal equality, state power, income distribution, economic analysis of law, economic interests.

## INTRODUCTION

Over the past decade, the rule of law has become one of the most discussed issues both in Russia and around the world. Many legal scholars will agree with the thesis that the rule of law is a key factor for the stable economic growth of any state. Being a product of bourgeois liberalism, this concept is aimed at developing business, ensuring the protection of both domestic and foreign investments. However, it is important to note that currently the number of conversations about human rights is growing, while the real rights associated with ensuring basic needs have significantly decreased for the majority of the population. Robert Fine and Sol Picciotto fairly note that "...There is no right to decent housing, but there is the right to freely own your home, be it a shack or a palace. Other social rights, such as health, are not recognised as legally guaranteed and are subject to the vagaries of government security" (Fine and Picciotto 1992).

Due to its significance and importance, the concept of the rule of law has been and is the subject of research in terms of its practical impact on the state of the economy in various countries of the world. This is confirmed by the activities of The World Justice Project, which published the Rule of Law Index for 2019 based

on opinion polls of 120,000 households and a study of 3,800 expert sources in 126 countries (WJP Rule of Law Index 2020). The Index meter consisted of eight indicators (factors): limitation of state power; lack of corruption; open government; protection of fundamental human rights; order and safety; enforcement; civil justice; criminal justice. Based on the above indicators, Russia in the overall ranking in 2019 is in 88th place out of 126 countries, and in 11th place out of thirteen countries of Eastern and Central Europe (World Justice Project... 2019).

The Russian Federation also took 134th place in the updated version of the Democracy Index, compiled by experts from the British company Economist Intelligence Unit (Democracy Index 2019). Russia has improved its position in this rating, however, according to the compilers, it has remained on the list of authoritarian regimes. In the Corruption Perceptions Index, Russia scored 28 out of 100 points and moved up one position, taking 137th place out of 180 (Corruption Perceptions Index 2019). These indicators play an important role in the investment climate of a particular country, and, consequently, in the development of its economy. Thus, in the Global Competitiveness Index (GCI) of the World Economic Forum for 2018–2019, Russia ranked 43rd among 141 states (The Global Competitiveness Report 2019).

In this paper, the dialectical method became the basis for coverage of the subject matter, setting and

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achieving the purpose of the study, ensuring compliance with the principles of scientific knowledge. Also, the research methodology is largely based on the analysis of econometric and law-based indicators that are in the public domain.

## **THE NATURE AND CONCEPT OF THE RULE OF LAW**

The complexity of the rule of law is expressed in a dual approach to assessing the content of this concept. On the one hand, the rule of law can be considered to be a purely "procedural" ideal that preserves neutrality in relation to various moral values, on the other hand, in attempt to fill it with a meaningful dimension, it can be based on any value convenient for representatives of a certain social class and consolidated as an undeniable priority. The scientific literature tends to increasingly recognise the particular importance of the rule of law specifically for the private sector of the economy. From the business owner to the consumer, predictable, clear and equally applicable laws are believed to benefit everyone. In accordance with this approach, it is the effective owner, as the "living embodiment" of the rule of law, that should become the foundation of the legal paradigm that has already become quite strongly entrenched in the global public consciousness.

Thus, market proponents refer to The International Property Right Index, a combined indicator of The Property Rights Alliance that measures the achievements of countries around the world in terms of property rights protection. Researchers use a wealth of information, digital data and sociology to convince the public that property rights constitute the foundation of the well-being economy. The Alliance estimates 125 countries that generate 98% of global GDP and where 93% of the world's population lives (Montanari 2018). Russia ranked 84th in this rating.

Using the concept of the rule of law as a tool to ensure their private economic interests, the supporters of the free market build their argumentation around the fact that the state is called upon to serve as a form of organisation of civil society, it only defines the institutions of economic activity, the subjects of which are equal in relations with the authorities, which, in theory, excludes any form of arbitrariness. It is this approach that should ensure the legal "comfort" of entrepreneurship in modern market realities. Thus, among lawyers, the rule of law (when the law rules, and not the people) has become something akin to the

"invisible hand" of the market for economists. In this regard, comparable questions arise regarding the definition of such concepts as "democracy", "freedom", "justice", and what is put into these concepts when referring to the desired social order.

Admittedly, such interpretation of the concept is not without criticism. For example, J. Waldron does not agree with the tendentious approach to understanding the rule of law as the rule of property law. He notes that the true interest of the proponents of this approach lies in the necessity of "forcing the authorities to respect property rights, the interests of investors, and providing a free market" (Waldron 2012). Nevertheless, it is important to remember that by adopting laws that contradict economic relations, as F. Engels emphasised, the legislator complicates their operation, which in turn leads to an irrational waste of material resources and human resources (Marx and Engels 1965). Thus, most of the inequality in our society makes no sense. This only indicates that society has allowed a privileged group of large owners to receive a disproportionately large share of the national wealth. Society at large would most likely lose nothing in terms of efficiency if rich people paid higher taxes.

The matter of the attitude of law towards social justice is one of those hotly debated issues that lead people to take a progressive or reactionary stance. It is obvious that the level of social inequality all over the world is growing, and Russia is one of the flagships of this process. Experiments to introduce the concept of the rule of law in third world countries and the former socialist camp lead to the degradation of the economy and social infrastructure in these societies and the provision of the most favourable conditions for the local oligarchy and transnational corporations (Trubek 2003). Therefore, currently the economy faces the issue that concerns not so much the production as the redistribution of public goods. And this is a fact in favour of ensuring legal stability, and not in favour of the stability of private property and its privileged position in other branches of law.

## **DYNAMICS OF ENSURING ECONOMIC STABILITY IN THE RUSSIAN FEDERATION**

Western research shows that income inequality was high during the time of tsarist Russia, then fell to its lowest level during the Soviet period and finally rose to prohibitive levels after the collapse of the Soviet Union. The dynamics of the change in real incomes of Russians between 1989 and 2016 indicates that

currently only 1% of the richest citizens of the Russian Federation receive 429% more (including 0.001% whose incomes increased by 4,122%). The richest 10% increased their income by 171%. The same studies show that despite the fact that on average Russians have increased real incomes by 41%, half of them, on the contrary, have lost 20%. According to these estimates, in 1905 the 10% share of the national income of the population was about 45-50%, during the Soviet period this figure dropped to 20-25%, rose again to 45-50% in the 1990s, and then the dynamics showed stable growth. These data suggest that the levels of inequality in tsarist and post-Soviet Russia are approximately comparable (Novokmet, Piketty and Zucman 2018).

The Gini coefficient measures the degree to which the distribution of income or consumption expenditures of individuals or households in an economy differs from absolute equality in distribution. In 2018, for Russia, the Gini index increased for the first time since 2012 and amounted to 41.3%. The indicator takes a value from 0% (in the case of complete equality) to 100% (in the case of absolute inequality). Unsurprisingly, as economic inequality rises, trust in law is being lost. Edelman analysts have released their 20th annual Edelman Trust Barometer, which measures people's trust in social institutions. The rating was prepared based on a survey of 34 thousand people living in 28 countries of the world. According to the results of their research in Russia, only 34% expect that in five years their families will live better than at present. The survey showed that the level of people's trust in business, government, non-profit organisations and the media is declining. None of these institutions have been recognised as either competent or ethical (Edelman Trust Barometer 2020).

In terms of general indicators, there are also a number of international ratings of social well-being, and Russia is not in the leading positions in them. In the OECD Better Life Index it ranks 33rd out of 38, in the Economist Intelligence Unit "Where-to-be-born Index" – 72nd out of 80, in the UN World Happiness Report – 68th out of 156.

Judging on the concepts of the rule of law and human rights not by what they offer, but by the way they operate, it can be concluded that these ideological constructions serve not to build a society of freedom and equality, but to the current situation based on the extremely unfair distribution of vital social resources. In this regard, the perception and functions of the concept

of the rule of law will soon change towards the basic ideas of social equality and justice.

The matter of the objectivity of all the above-described econometric and legal metrics remains controversial. As a rule, they are based on economic indicators, expert opinions and subjective feelings of citizens. Moreover, as R. Posner fairly pointed out, "statistical data on income inequality cannot be a clear guide in social policy. When looking at income data for one year, such statistics can mislead people at different stages of their life cycle" (Posner 1986). In support of his position, he cites examples where an important part of wages is often "non-monetary", or where statistics consider cash payments to be income, which are actually reimbursements of expenses. R. Posner's supporters believe that income inequality does not play a decisive role in maintaining social stability. In their opinion, a high average income, even with a small class of poor and a huge class of rich, is already enough to achieve social harmony in society (Kennedy 1992).

However, the general trend can indeed be traced from all analytics. In the overwhelming majority of economic and right-handed ratings, the first places are occupied by the countries of the so-called "Scandinavian socialism" (Finland, Sweden, Norway, Denmark). These countries are described by an active social policy aimed at a more equitable redistribution of public goods. In many ways, this can be considered an example of how economic stability ensures legal stability. On the other hand, perhaps the main lesson that the history of the "welfare state" gives is that the consistent implementation of bourgeois human rights does not ensure the fullness of being, does not make a person's relations with other people more humane. Hence, as Z.V. Solomko (2017) notes, occurs the depression of "Scandinavian socialism" and the "Breivik phenomenon".

## CONCLUSIONS

Operational, and not only the declared subjective rights, are based on the actual measure of human freedom, which is ultimately determined by a certain method of production of material goods, the prevailing forms of property and the place that a person occupies in the system of social production.

Notably, at the same time that Russian legal scholars renounced Marxist legal thinking and started preaching a new religion, Western critical legal theory

most definitely fixed the repressive functionality of modern ideology of human rights and rule of law. Thus, according to Duncan Kennedy, within the framework of this ideological perspective, all the problems of the existing society come down to the necessity of shifting the emphasis from property rights to human rights and to the safe requirement for the system to implement formally fixed subjective rights. At present, large social groups have a clear understanding that the very ideology of human rights works mainly for the benefit of the minority – the wealthy owners of ownership in the means of production.

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