

FREEDOM AND EQUALITY IN JOHN RAWLS' THEORY OF JUSTICE

LIBERDADE E IGUALDADE NA TEORIA DA JUSTIÇA DE JOHN RAWLS

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ABSTRACT

This article analyzes the rawlsian proposal of society as an equitable system of cooperation and the relevance of the notions of freedom and equality as guiding elements of the principles of justice. In this sense, securing stability and the formation of a public reason so that societies might develop in a more just way by reconciling the most varied conceptions of good present within a society is a challenge for the project of social justice in Rawls. Some possibilities for conciliation among these different conceptions of good emerge in this context, demonstrating that it is necessary to strengthen the sense of justice in each subject so that, in the conflict between a conception of unreasonable good, the principles of justice prevail and begin to serve as guide for the establishment of social justice. Thus, based on the hypothetical-deductive approach, using a theoretical basis present in the contemporary political philosophy, the

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article invites us to reflect on the supposed theorists who structure the rawlsian conception for a just political society. It remains evident that the basic structure, one of the foundations of Rawls's ideal of social justice, is responsible for confronting injustices, challenging societies to review their actions. As complex as it may be the complete elimination of the contingencies that manifest within social life, it is the responsibility of the institutions to contribute to mitigating such interurrences and promoting cooperation.

Keywords: Cooperation; Equality; Justice; Liberty.

RESUMO

O presente artigo analisa a proposta rawlsiana de sociedade como um sistema equitativo de cooperação e a relevância das noções de liberdade e igualdade enquanto elementos norteadores dos princípios de justiça. Nesse sentido, garantir estabilidade e a formação de uma razão pública para que as sociedades possam se desenvolver de uma maneira mais justa, conciliando as mais variadas concepções de bem presentes no interior de uma sociedade, é um desafio para o projeto de justiça social em Rawls. Algumas possibilidades de conciliação entre essas diferentes concepções de bem emergem nesse contexto, demonstrando ser necessário fortalecer o sentido da justiça em cada sujeito a fim de que, no embate entre uma concepção de bem não razoável, os princípios de justiça prevaleçam e passem a servir de guia para a instauração da justiça social. Assim sendo, com base no método de abordagem hipotético-dedutivo, utilizando uma base teórica presente na filosofia política contemporânea, o artigo convida a refletir sobre os supostos teóricos que estruturam a concepção rawlsiana para uma sociedade política justa. Resta evidente que a estrutura básica, um dos fundamentos do ideal de justiça social em Rawls, é responsável pelo enfrentamento das injustiças, desafiando as sociedades a rever suas ações. Por mais complexo que seja a completa eliminação das contingências que se manifestam no interior da vida social, é responsabilidade das instituições contribuir para amenizar tais intercorrências e promover a cooperação.

Palavras-chave: Cooperação; Igualdade; Justiça; Liberdade.

INTRODUCTION

Justice as equity aims to present a conception of justice that might be shared by all citizens.¹ In order for it to be possible, Rawls conceived his proposal from

¹ The Rawlsian proposal of justice as equity has undergone some reformulations since *A theory* (1971) to *Political liberalism* (1993). Notably, in the first work we observe the predominance of the ethical character, which is overcome in the second work, when the proposal is to emphasize an objectively political conception of justice, present in each of the author's arguments.

the social contract theory, thinking that would be permissible to raise it to the highest level of abstraction, so that the principles of justice could be consensually established. It appears, in this context, as a proposal for the formulation of such political principles of justice, the idea of original position.²

The agreement, so that those principles may be born, can only happen within the original position, away from any external interference that may result in particular advantages for the related parties.³

In this sense, Rawls introduces an artifice for representation, that he calls the *veil of ignorance*,⁴ which will be able to prevent those involved in the process of establishing the principles of justice, called parties, from knowing the advantages that they would have in deciding, in one way or another, with respect to the principles of justice that will give the guidelines for the basic structure of society.⁵

According to Rawls (2001) once at the original position, it is necessary that all the contingencies have to be abstracted during the establishment of the principles of justice. Such contingencies are related to particular circumstances and characteristics from the individuals and, therefore, they have to be eliminated when it comes to the political proposal of justice.⁶ The task of conceiving principles of justice, free from

² Forst (2010, p. 174) highlights that, "the parties in the 'original position' are endowed with the capacity for rational reflection based on certain information on the 'circumstances of justice' and on the issues of economic and social organization: scarce resources, conditions of economic efficiency, subjective interests and capacities for cooperation are assumptions. The construction of the original position leads everyone to be in an equal situation and choosing principles of equality that ensure that (a) each individual can execute his talents and life plans; (b) that this accomplishment occurs in conditions of justice that prevent the emergence of inequalities that permanently deprive part of the population of taking advantage of this opportunity".

³ To Dworkin (2005, p. 181), "the members of the 'original position', in which the principles of justice are chosen, act as trustees of other persons, whose social and economic position, talents and abilities, tastes, and conceptions of good, are unseen from the trustee under the 'veil of ignorance'. The trustees from the original position, and the conditions of the original position, are patterned in such a way that they admit that people have a fundamental interest in freedom".

⁴ In this sense, "through the 'veil of ignorance', the parties are compelled to put themselves in the place of each individual in this society, being this individual talented, successful, affluent, or unsuccessful; from this or that generation". (FORST, 2010, p. 174).

⁵ As Rawls (1999, p. 11) observes "[...] no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. Since all are similarly situated and no one is able to design principles to favor his particular condition, the principles of justice are the result of a fair agreement or bargain. For given the circumstances of the original position, the symmetry of everyone's relations to each other, this initial situation is fair between individuals as moral persons, that is, as rational beings with their own ends and capable, I shall assume, of a sense of justice. The original position is, one might say, the appropriate initial status quo, and thus the fundamental agreements reached in it are fair".

⁶ To Rawls (2001, p. 16) "[...] eliminate the bargaining advantages that inevitably arise over time within any society as a result of cumulative social and historical tendencies. Contingent histo-

such contingencies, is a responsibility from the parties, who as representatives of the citizens would exercise such a function within the original position.

Therefore, the present article analyzes in what sense society as an equitable system of cooperation, the notion of basic structure and well-ordered society, are fundamental ideas that permeate the discussions about justice in the theory of John Rawls. All these ideas are interconnected with two other equally indispensable ideas represented by the principles of social justice and the conception of person as free and equal. In order to organize such ideas and make them consistent with the proposal of this article, we will take as our starting point the following notions: original position, as an agreement that is stipulated in an equitable way for the establishment of principles of justice and the conception of what Rawls calls parts, a qualification present in the process of choosing the principles of justice. It is only after realizing these first considerations that we can understand the Rawlsian proposal of cooperative society and the idea of freedom and equality present in his theory, fundamental for the realization of a just society.

THE PARTIES IN THE ORIGINAL POSITION AND THE GUIDELINES FOR THE CONSTRUCTION OF THE BASIC STRUCTURE OF SOCIETY

The parties, acting as rational agents,⁷ recognized as free⁸ and equals,⁹ would specify the equitable terms of cooperation from the principles of justice

rical advantages and accidental influences from the past should not affect an agreement on principles that are to regulate the basic structure from the present into the future”.

⁷ The description of the parties by Rawls (2001) is created and developed from the idea of rational, artificial and non-political autonomy. It means that the parties would have the ability to firm an agreement or to reach consensus on a particular matter. As the author himself points out, rational autonomy would be a kind of pure procedural justice, since it represents the interests of the citizens themselves when they specify the equitable terms of cooperation that will be reflected by the principles of justice. In other words, the fair procedure will necessarily produce a fair outcome.

⁸ The issue of freedom in Rawls is something that is directly related to the concept of person and the ability to participate in social life. Nussbaum notes that the American author “[...] does not accept tradition, since they do not admit that pre-political natural rights exist. He affirms, however, that equality is founded on natural capabilities, in particular on the capacity to develop a sense of justice”. Considering what says the tradition, according to Nussbaum, the right to freedom is understood as a pre-political value, “the parts of the social contract are, first of all, *free*: that is, no one owns the other, nobody is a slave of another. The postulate of natural liberty is a very important part of the attack of tradition on various forms of hierarchy and tyranny” (NUSSBAUM, 2013, p. 35-36, griffin of the author).

⁹ Nussbaum (2013, p. 37-38) observes that it is a characteristic from the contractualist doctrines “[...] that the parties begin negotiation in a situation of approximate *equality* – not only moral equality, but an approximate equality of capacities and resources. All the advantages and hierarchies between human beings that are created by wealth, birth, class, etc. are imaginatively absent, and we are left with the naked human being, so to speak”. Rawls, in Nussbaum’s view, clearly distinguishes these two types of equality, but they appear as prerequisites, as the basis that support his theory.

in order to reach an agreement for the construction of the basic structure of society. The consensus on which principles the parties agree on would be “[...] deductively by reasoning from how the parties are situated and described, the alternatives open to them, and from what the parties count as reasons and the information available to them” (RAWLS, 2001, p. 17).

The question that may arise after these affirmations regarding the parties and their action for the creation of the guidelines for the basic structure of the society is how the fair terms of cooperation are determined. Would they be dictated by the divine law? By an ethical moral order? By intuitions? By natural law? Or by the particular interests of the citizens themselves? Just to delimitate his starting point, Rawls (2001, p. 15) highlights the following:

The fair terms of social cooperation are to be given by an agreement entered into by those engaged in it. One reason it does this is that, given the assumption of reasonable pluralism, citizens cannot agree on any moral authority, say a sacred text or a religious institution or tradition. Nor can they agree about a moral order of values or the dictates of what some view as natural law. So what better alternative is there than an agreement between citizens themselves reached under conditions that are fair for all?

Once in the original position, the parties do not know the particular interests of the citizens they represent nor the social position they occupy, the comprehensive moral doctrine they follow, as well as “[...] race and ethnics group, sex, or various native endowments such as strength and intelligence, all within the normal range”, and this qualifies what we have previously called the “veil of ignorance”: the impossibility of being touched by any particular interest or advantage (RAWLS, 2001, p. 15).

The rational autonomy present in the original position enables the parties to choose the principles of justice that they suppose that are acceptable and appropriate for the society. Such principles “would be selected as the result of a rational deliberation process, understood as a process carried out by the parties”. Therefore, the parties would be free to decide upon the possible principles of justice in accordance with the limits imposed by the original position itself, always considering what will be the most appropriate and advantageous for the individuals they represent as citizens. Thus, the citizens would also be carriers of this rational autonomy at the moment they are free to conceive their own conception of good within the limits of political justice and accomplish their interests associated with their moral capacity (RAWLS, 2000, p. 118).

As the author himself points out, we cannot forget that when we refer to rational autonomy, we're actually using a representation artifice, “artifice of reason”, since we would be working inside the original position that effectively

represents an artifice in the Rawlsian theory. Therefore, considering the previous approach, the parties would elect the following principles of justice:¹⁰

- (a) Each person has the same indefeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all; and (b) Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to (be to the greatest benefit of the least-advantaged members of society (the difference principle) (RAWLS, 2001, p. 42).

It is now worth to inquire how would the parties reach these principles and how would they be sure that they would be endorsed by the citizens from a society? – considering that the original position should be indifferent to any external interference and covered by a veil of ignorance.

In an attempt to explain what would be considered during the construction of the principles, Rawls (2000, p. 229) points to a list of primary goods,¹¹ which are relevant to the free and equal citizens in a well-ordered society, such as rights, freedoms, basic opportunities, income and wealth, and the social bases of self-respect.¹² The primary goods represent, objectively, what citizens would endorse as essential characteristics and should be present within the principles of justice. They comprise “a practicable public base”, which can be expanded over time as well as society becomes more complex.

¹⁰ Forst (2010, p. 174) adduces that: “These principles of justice do not guarantee equal distribution of all basic goods. However, it requires equality: *absolute*, for the fundamental rights and freedoms of the individual, *the greatest* possible for the opportunity; and *relative* to material resources, according to which inequalities need to be justified but, eventually, may even be justified” (griffin of the author).

¹¹ Therefore, “this list of basic goods fulfills a central function: they represent those defined in a sufficiently formal way that serve as ‘means for all purposes’, necessary for the realization of the individual conceptions and proper from the good and which are defined in a sufficiently substantive way to provide a criterion of equal social opportunities. The list of basic goods forms the basis for the parties decision in the ‘original position’ to find principles that distribute these goods in the best possible way without sacrificing individual freedom in the name of equality and vice versa” (FORST, 2010, p. 174).

¹² As described by Dworkin (2005, p. 181), referring to Rawls, “the self-respect would be offered by the trustees (parties), to the citizens of a well-ordered society, being treated as a major good. Thus, self-respect would be constituted by two elements: ‘the trust we have in ourselves as fully cooperative members of society, substantiated in the development and exercise of the two moral powers’ and ‘the security of our own value, substantiated on the conviction that we accomplish an advantageous life plan’. [Rawls] believes that trustees would protect the priority of freedom, among other reasons, because ‘self-respect is encouraged and sustained more effectively by the two principles of justice, again precisely due to the insistence on fundamental egalitarian freedoms’”.

THE CHOICE OF THE PRINCIPLES AND THE CRITIQUES DIRECTED TO THE LIST OF PRIMARY GOODS

The Rawlsian proposal of justice as equity, the idea of original position, choice of principles and its list of primary goods, has been severely criticized by some authors. It is interesting to note, in this context, the comments made both by Amartya Sen (2011) and by Robert Nozick (1991).¹³ The first one observes how fundamental is the variation among people when it comes to their basic capacities to effectively use the primary goods in such a way that it could promote personal achievement; the second one, however, accuses Rawls of dissociating himself from historical experience, which would compromise his theory of justice.

Many of these criticisms appear in the book *Political liberalism* (1993), especially the criticisms related to the conception of person and capacities (moral, intellectual and physical). For Sen (2011), both the conception of person and the idea of capacities, were not satisfactorily treated by Rawls, as well as the conceptions of good in its preferences and likes.

Another author who also criticizes the Rawlsian proposal is Nozick in his book known as *Anarquia, Estado e Utopia*. According to Nozick's conception, there is a significant distance from the Rawlsian proposal regarding the historical and political issues that are part of the social reality. In his words,

A norm that justifies principles of distributive justice, with which rational people, who know nothing about themselves or their stories, would agree, ensures that the principles of justice from the final result will be accepted as fundamental. Perhaps some historical principles of justice may be derived from final state principles, the same way as the utilitarians try to derive individual rights, prohibitions on the punishment of innocents, etc., from their principle of final result. Perhaps these arguments can be worked out even for the principle of the right to things. However, it seems that in the first case, the participants in Rawls's initial position could not agree on any historical principle. This is because people who gather under a veil of ignorance in order to decide who gets what, knowing nothing about any special rights that people may have, will treat everything to be distributed as manna fallen from the heavens (NOZICK, 1991, p. 215, griffin of the author).

¹³ To Nozick (1991, p. 218-219), "Rawls's interpretation is incapable of producing a right to things or a historical conception of distributive justice [...] If the historical principles of the right to things are fundamental, then Rawls's interpretation at best produces approximations of them, but the erroneous types of reasons for them and their derived results, sometimes clash with the exactly correct principles. The whole procedure of people who choose principles in Rawls's initial position presupposes that any historical conception of the right to things or property is not correct".

Specifically, the principles of justice were criticized by Sen in his book *The idea of justice* (2011). The author reignites the discussion about the previous issues, but he also notes that Rawls understood his initial notes, and in the *Political liberalism* (1993), he made corrections.¹⁴ In certain passages of his book, Rawls effectively understood and located the problems had been pointed out by Sen, and recognized the need to make revisions in order to resolve possible misunderstandings. Rawls (2000) emphasizes, however, that he is not interested in deepening certain issues in which Sen had worked exhaustively, specifically when dealing with the basic capacities of citizens within a society.

The need for a certain starting point, dedicated for the choice of the principles that will be elected from a list of primary goods, has everything to do with the social structure created by Rawls.¹⁵ His proposal for a democratic, constitutional and well-ordered society, constituted by free and equal citizens, as fully cooperative members throughout life, presupposes minimum capacities, less comprehensive than the proposal suggested by Sen.¹⁶

As Rawls himself (2000, p. 230-231) makes explicit “although citizens do not have equal capacities, [they must] have indeed, at least in the minimum essential degree, the moral, intellectual and physical faculties [...]” which enable them to cooperate in society.

¹⁴ Sen (2011, p. 255-256) states that, “given the importance of the distance between capabilities and resources, for reasons already discussed, it is difficult not to be skeptical about the principle of difference proposed by John Rawls, that focuses entirely on the primary goods to judge distributive issues according to its ‘principles of justice’ to the society’s institutional basis. This divergence, with all its importance, obviously does not mean Rawls’s lack of concern with the importance of substantive freedom – as I have already noted in this paper. Although Rawls’s principles of justice focus on primary goods, somewhere else he addresses the need to correct this focus on resources to better grasp people’s real freedom. Rawls’ broad sympathy for the disadvantaged is abundantly reflected in his works. I believe that Rawls is also motivated by his concern for the distributive equity of substantive freedoms and capabilities, but by justifying his principles of justice through the informational perspective of primary goods included in the principle of difference, he leaves the determination of ‘just/fair institutions’ to the distributive justice and to the basic institutional orientation exclusively on the slender shoulders of primary goods. This does not grant his underlying concern with capabilities enough space for them to influence the institutional phase by which their principles of justice are directly interested”.

¹⁵ To Forst (2010, p. 174), “the first principle enjoys priority over the second (principle of difference). However, there is an internal normative link between the two: the second principle of equality of opportunity and social justice is necessary for the *realization* of the subjective rights of the first” (griffin by the author).

¹⁶ Although there are divergences between the theories proposed by Rawls (primary goods) and Sen (capacities), both provide relevant contributions to think a theory of justice. We might say that Rawls and Sen complete themselves even though there are many antagonistic points.

Therefore, we emphasize that Rawls (2000) does not ignore the existence of variations¹⁷ in the citizens' capabilities, nevertheless, he proposes that an analysis should be made of them, starting right from the satisfaction of the principles of justice that consider a list of primary goods since its formulation. This exercise would result in the realization of justice inside a society, guaranteeing an existential minimum for a dignified life. Rawls proposes to citizens, as members, the need for mutual respect and cooperation.

In accordance to Weber (2013, p. 207),

the definition of this existential minimum content is, however, the object of much divergence. Understand it as the satisfaction of the basic necessities of life – a kind of physical survival – is too restricted. Sarlet, referring to the effectiveness of the dignity of human person, draws attention to the existential minimum as a fundamental right that is related not only to “a set of benefits sufficient barely to ensure the human existence (the guarantee of life), [...] but a life with dignity, in the sense of healthy life”. It places, therefore, in its base, the dignity and its forms of concretization and does not reduce the existential minimum to the “vital minimum”.

In this sense, there is a variety of definitions about the expression *existential minimum*, and the author goes on to say that, “the fact is that it is not possible to determine abstractly the content of this existential minimum. Its demands may vary according to the economic, cultural and social conditions of a nation”. However, we can adopt some criteria as the basis for defining what would be the guarantee of a decent life. “Social rights such as health, education and housing are among them. Therefore, as a first delimitation, it's possible to affirm that the content of the existential minimum is constituted basically by the fundamental social rights [...]”. The guarantee of a dignified existence goes beyond the notion of physical survival, but instead it implies the development of personality as a whole. “Living is not just surviving” (WEBER, 2013, p. 207).

The difficulty in getting in a consensus regarding the conceptualization of what effectively would be the existential minimum, we decided to consider, for the present study, the Rawlsian position; it is with this position that we intend to advance in the intricacies of the proposal of a just/fair society. Thus, in this just/fair society, the notion of an existential minimum is directly related to the pos-

¹⁷ “The four main types of variations are: (a) variations in moral and intellectual capacities and abilities; b) variations in physical capacities and abilities, including the effects of diseases and fatalities on natural capacities; c) variations in the conceptions of the well-accepted by the citizens (the fact of reasonable pluralism); and d) variations in likes and preferences, although the latter are less profound” (RAWLS, 2000, p. 231, our translation).

sibility of a dignified life, which satisfies the basic needs of the citizens and broadly guarantees the fundamental rights. The observance of the essential constitutional elements would already fully perform the content of the existential minimum.

After, understanding these variations and also considering that we are dealing with the construction of a fully cooperative society, formed by free and equal citizens willing to collaborate throughout life, it is possible to realize that the conception of person, created by Rawls, limits the comprehension of who would effectively be part of such society.¹⁸ As highlights the author, “the only variations in moral, intellectual and physical capacities are those above the essential minimum” (RAWLS, 2000, p. 231). In acc

ordance to Rawls’s observation on the Principle of Difference,¹⁹ such variations would be quickly solved by social adjustment mechanisms that would provide stability.

The political conception of justice expands the idea of citizenship and seeks the fulfillment of rights and freedoms. This idea is contemplated by the list of primary goods that goes beyond the necessary minimum to participate as cooperative, free and equal citizens in a society.

As highlights Forst (2010, p. 171), “citizenship is a complex concept because it must also reach ethnic-cultural differences, legal equality and common political characteristics.” It involves the recognition of the citizens’ equality and their differences as well. In terms of equality, the author emphasizes “equality as ethical people, as people of law and as fellow citizens”, fundamental requirements in order to be considered “full members of the political community”.

With Forst, it is possible to analyze how Rawls works this idea of full citizenship, considering his proposal of social justice. Participation in society, as a citizen, must be understood as the hard core of Rawls’s theory of social justice. In other words, the principle of citizenship would serve as the basis on the Rawlsian proposal of social justice, founded on the mutual respect among its members, even in a plural society, composed by a myriad of conceptions of good.

¹⁸ To the American author “[...] the variations that place some citizens below the dividing line, as a result of illness or fatality (since we admit these circumstances), can be resolved, in my opinion, in the legislative stage, when the occurrence of these misfortunes and their types are known and the costs of their treatment can be verified and computed in the total expenditures of the government. The goal is to restore people’s health through medical treatment so that they can become fully cooperative members of society” (RAWLS, 2000, p. 231-232).

¹⁹ In this sense, “[...] a principle of distributive justice in the narrow sense. [...] is subordinate to both the first principle of justice (guaranteeing the equal basic liberties) and the principle of fair equality of opportunity [...] the difference principle requires that however great the inequalities in wealth and income may be, and however willing people are to work to earn their greater shares of output, existing inequalities must contribute effectively to the benefit of the least advantaged. Otherwise the inequalities are not permissible” (RAWLS, 2001, p. 86-87).

For this reason, Forst (2010, p. 172-173) reaffirms that it is not possible to forget that the Rawlsian theory of social justice is justified by the idea of original position and by the concept of person (ideal of person). This would correspond to “an ideal of social co-operation among such persons who have incompatible conceptions of good and a common sense for justice”.

THE NORMATIVE CONCEPTION OF PERSON AND THE RAWLS' IDEA OF FREEDOM AND EQUALITY

The Rawlsian proposition of a well-ordered society requires a conception of person with certain moral qualities, compatible with his ideals of justice as equity. The conception of political justice to be applied at the society's basic structure requires the configuration of free and equal citizens, reasonable and rational as well as capable of being part of the cooperative system that is intended to be built. Thus, the perception of person in Rawls' idea is a political conception and it involves the participation of the citizens endowed with moral qualities, in such way that it's possible to favor the mutual system of cooperation, that will serve as the basis for a democratic liberal society.

Social co-operation, which has been presented in the theory of justice as equity, requires citizens to help each other, that is, to cooperate with one another with the purpose of building a cooperative society. For this to happen in such effective way, it is necessary that the individuals involved, being free and equal citizens, understand how important is their participation and collaboration so that justice as equity may become as a social justice project.

Notwithstanding, before we talk about the citizens role in the construction of the cooperative society, it is necessary to define what represents the idea of free and equal citizens in the conception of person proposed by Rawls, a definition that is political-normative one. The notion of person that involves a political conception, neither metaphysical nor psychological, is a formulation compatible with the very idea of justice present in a democratic society. In Rawls (2001, p. 24), the normative conception of a free and equal person

[...] is given by our moral and political thought and practice, and it is studied by moral and political philosophy and by the philosophy of law. In specifying the central organizing idea of society as a fair system of cooperation, we use the companion idea of free and equal persons as those who can play the role of fully cooperating members. This conception of the person is not to be mistaken for the conception of a human being (a member of the species *homo sapiens*), [...] to characterize the person, we must add to these concepts those used to formulate the powers of reason, inference, and judgment. These are essential companion powers to the two moral powers and are required for their exercise and for the practice of the virtues.

We aim to clarify, from now on, what Rawls understands as free individuals, while fundamental quality to participate in the cooperative social system. Secondly, our goal is to make explicit the idea of citizens as equal individuals and their relation to the Rawlsian social justice project. It is important to note that once we have a glimpse of these two qualities, it's possible to understand and analyze the proposal of social justice present within justice as equity, which requires respect and equal treatment for all its members, and the relevance of participants as active agents in this cooperative system.

The notion of citizens as free individuals in Rawls's conception (2001, p. 21) is an idea that has always been present within a democratic society. "Citizens are free in that they conceive of themselves and of one another as having the moral power to have a conception of the good". This, however, doesn't mean the commitment with a single conception of good, but the capacity to re-evaluate and even alter such conception.

By this bias, there wouldn't be one single conception of the dominant good, but instead, several conceptions of good that could be adopted independently. The conception of good – which free citizens intend to affirm in the private sphere –, in this way, cannot influence the way of acting and being in the cooperative society. The American author understands that "public and legal identity as a free person is not affected by changes that may occur, in time, in the specific conception of good that they affirm" (RAWLS, 2001, p. 21).

In this context, Rawls (2001, p. 21-22) argues that:

[...] when citizens convert from one religion to another, or no longer affirm an established religious faith, they do not cease to be, for questions of political justice, the same persons they were before. There is no loss of what we may call their public, or legal, identity—their identity as a matter of basic law. In general, they still have the same basic rights and duties, they own the same property and can make the same claims as before, except insofar as these claims were connected with their previous religious affiliation.

The author refers to two types of identity: the public or legal and the non-legal or moral. The first involves its status as a citizen in a political society and the list of fundamental rights in which it is linked. The second refers to the non-political involvement of each citizen inside society. Rawls (2001) is referring to the various values that permeate the private life of everyone, religious, moral, and philosophical convictions, as well as his affinity with particular association and groups that are part of his life history and give meaning to his own existence.

By referring to the two forms of identity, "[...] two kinds of commitments and attachments – political and non-political – specify moral identity and give shape to a person's way of life, what one sees oneself as doing and trying to ac-

comply in the social world". Besides, they serve as a sort of guide, such as a compass that shows the direction to life itself. No matter how conceptions of good may change throughout life and beliefs may be born, the legal-public identity will remain unchanged. As members of a well-ordered society, the personal identity acquired at birth, that is, the condition of belonging will remain unchanged over time (RAWLS, 2001, p. 22).

It also matches with the notion of free citizens, the possibility that the conceptions of good, which the citizens adopt and their demands – if compatible with the political conception that guides society – are accepted as part of the latent demands on the democratic society. The condition imposed on such situation is the need that those demands – that come from the comprehensive moral doctrines – are reasonable and able to coexist harmoniously with the political ideals present in a public conception of justice. It is necessary, therefore, a compatibility between the conception of good and the political conception of justice, reinforcing the notion of reasonableness present in the Rawlsian doctrine.

We turn now to the Rawlsian understanding of equality as a moral quality. For the author, as part of the moral faculties that qualify the individual to participate in the cooperative system in a well-ordered society, the notion of equality would be related to the possibility of minimally having the conditions to cooperate in that society. In Rawls' words (2001, p. 20, our translation), "to engage in social cooperation throughout life and to participate in society as equal citizens. To have these faculties [minimally] is what we consider as the basis of equality between citizens as persons".

The author assumes that the basis of equality is the minimum ability to have a sense of justice. For this to be possible, Rawls (1999) feels that, most of the times, it is necessary to reflect on the notion of an ethical person, which is fundamental for understanding the limits of justice as equity and of the normative conception of person. He considers an ethical person the one who is capable of having a conception of good that expresses a rational plan of life and who endorses the application of principles of justice, acting in accordance with its guidelines, in order to substantiate a sense of justice minimally.

In this sense, when we think of equal justice for everybody within a well-ordered society – which has as its proposal the realization of a political conception of justice – two fundamental and necessary questions emerge for its maintenance: the capacity of unrestricted participation in its construction and the perception of mutual advantage in adhering to the agreement.

For Cabrita (2013, p.338), in Rawls, it's possible to understand the

[...] idea of equal opportunity from two different senses: 1) as a principle of 'careers open to competences' – in this sense, it is a principle of non-discrimination before the law and is therefore relevant for histori-

cally discriminated individuals (the poor, women, racial minorities, etc.); and 2) as 'equitable equality of opportunities' – aims not only to abolish discriminatory legal barriers but also to guarantee those who are born in an unfavorable situation that is not thereby deprived of their access to different functions and positions. Consequently, it is up to the State to provide the necessary means to increase the expectations of the individuals when they are, by mere chance, found from an unfavorable social situation.

The full capacity to participate in co-operative life is directly related to the idea of present equality, as a necessary moral quality for the configuration of the conception of person in Rawls, and it agrees with the ideals of justice as equity, more specifically with the conditions so that such project may be accomplished. Equality, in this context, imposes the condition that in a cooperative society, all individuals are seen as equal and have the same conditions as members, being allowed differences only when the very basis of the shared political justice authorizes.

CONCLUSION

Ensuring stability for a well-ordered society is one of Rawls's goals in *A theory* while a social justice project. The principles of justice endorsed by citizens would guarantee stability, the formation of a public reason and the development of a fairer society. Such stability, that in *Political liberalism*, he calls consensus, more precisely of *overlapping consensus*. As free and equal persons, citizens would cooperate with each other, creating all the necessary conditions for social stability in order to promote the idea of justice, which would result in a full conception of justice.

Reconciling the most varied conceptions of good presented within a society is quite a challenge, and Rawls pursued this goal throughout his social justice project. In *A theory*, the author proposes some possibilities of conciliation between these different conceptions of good, demonstrating that it is necessary to strengthen the sense of justice in each citizen so that, when in conflict with a conception of unreasonable good, the principles of justice prevail and start to serve as a guide for the establishment of social justice.

Thus, reflecting on the supposed theorists who structure the Rawlsian conception for a fair/just political society, we find that the basic structure, one of the foundations of Rawls's ideal of social justice, is responsible for coping with injustices, challenging societies to review their actions. Although, it may be complex the complete elimination of contingencies that manifest themselves within social life, it is the responsibility of the institutions to contribute to assuage such interurrences and to promote social cooperation. The principles of

justice proposed in the Rawlsian theory are intended to contribute to these necessary adjustments within society, always with the aim of improving the idea of justice.

The ideal of a Rawlsian society requires the existence of cooperation among citizens and it involves a political conception of person, which is a compatible formulation with the idea of justice present in a democratic society. What matters for the stability of a democratic and well-ordered society is that all citizens endorse the same conception of justice, and that a good from a society would be able to flourish with the intention of uniting everyone in an egalitarian project of justice. Considering that, there must be a reasonable balance between comprehensive moral doctrines and political values, always prevailing political/public interest.

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