

ÉTICA NORMATIVA, METAÉTICA E FILOSOFIA POLÍTICA

# The conception of subject in the Theory of Justice as Fairness

*A concepção de sujeito na Teoria da Justiça como equidade*

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**Abstract:** The present exposition has the following structure. In the first part, (I), I will synthesize some of the criticisms of Rawls's conception of subject, or self; in the second part (II), I will scrutinize a 1963 paper by Rawls entitled "The sense of justice", and hope to show, on the basis of this text, that one cannot say that the Rawlsian moral being is a being without flesh, blood or life, as critics have suggested, following in the footsteps of criticism from Hegel to Kant; third (III), I will examine excerpts of TJ (*A Theory of Justice*) that deal, directly or indirectly, with the concept of subject; finally (IV), I will look at papers published after TJ that may be relevant to the present topic.

**Keywords:** Subject. Self. Just as Fairness. Morals.

**Resumo:** O presente texto apresenta a seguinte estrutura. Na primeira parte (I), resumirei algumas das críticas à concepção de sujeito em John Rawls; na segunda parte (II), examinarei um texto de Rawls de 1963, intitulado "O senso de justiça", e procuro mostrar, com base nesse texto, que não se pode afirmar que o ser moral rawlsiano é destituído de carne, sangue ou vida, como sugeriram alguns críticos, na esteira das críticas de Hegel a Kant; em terceiro lugar (III), examinarei trechos de TJ (*Uma teoria da justiça*) que lidam, direta ou indiretamente, com o conceito de sujeito; finalmente (IV), examinarei textos de Rawls publicados após TJ que possam ser relevantes para o presente tópico.

**Palavras-chave:** Sujeito. Self. Justiça como Equidade. Moral.

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## Introduction

The main goal of this paper is to discuss the criticism, scattered here and there, that the Theory of Justice as Fairness, the theory developed by John Rawls throughout most of his career, implies a lack of a *self*, or that his conception of subject is be exceedingly abstract, lacking vigor. It is, of course, a new version of the argument of Hegel against the Kantian moral being, that it is “devoid of flesh, blood and life”. These criticisms originate generally from the so-called “communitarian” authors, such as Charles Taylor and Michael Sandel, for instance. To the “left”, let’s say, we have the criticism of Scanlon, which questions the need, or even the possibility, of the “ignorance veil”, which is a contractual device.<sup>1</sup>

In answer to the first type of criticism, it can be said that: (1) Rawls does have a basic conception of self, and (2) he has no need for a deeper conception of self, given the priority of the Just (or Right) over the Good.

(1) *How did Rawls conceive the self within the framework of his theory?* It is indeed a moral self, i.e., a self with a moral sense of justice, on the one hand, and a conception of Good, on the other. The fact that there is a priority of the Just over the Good does not mean that his conception of self is non-existent or irrelevant; it has only to be put in the broader perspective of the social, or collective being. It is, in other words, a Republican conception. (Not in the sense of American parties division, but in the sense of a conception committed with republican values, that is, *res publica* in the latin sense of the word.)

## I Rawls and his critics

According to the Rawlsian conception, the self is normally subjected to three types of guilt: guilt regarding authority, guilt regarding association, and guilt related to principles. Only the last stage, so argues Rawls, is really moral, and close to autonomy. I avoid doing something, or blame myself for something I did, taking into account the good of others, with whom I am not necessarily related in any manner. It is a sort of responsibility, based on the third kind of guilt, related to the broader collectivity and to mankind, and related at a local level to my fellow citizens.

In this way, Rawls does not really need a more elaborate conception of self. I do not mean to suggest a devaluation of the authors just quoted, especially Charles Taylor, who carries out the “making of

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<sup>1</sup> T. M. Scanlon, “Contractualism and Utilitarianism”, in: A. Sen e B. Williams (org.). *Utilitarianism and Beyond*. Cambridge/Paris: Cambridge University Press/Maison des Sciences de l’Homme, 1982, p. 103-128.

Modern identity”, as expressed by the subtitle of his work.<sup>2</sup> The main disagreement between Taylor and Rawls seems to be located in the insistence, on the part of the former, on a more “substantive” moral conception, which is less deontological and more ontological. Taylor states, for instance:

Morality is occupied in a more restricted manner with what we should *do*, and not with what is also valuable in itself, or with what we should admire or love. Contemporary philosophers, even when they descend from Kant, and not from Bentham (e.g., John Rawls), share this point of view. Moral philosophy should be concerned with the determination of the principles of our action.<sup>3</sup>

Well, it is precisely this “foundationalism” that Rawls wants to avoid: I remember that it is, in his words, a conception “political”, “not metaphysical”.<sup>4</sup> The choice of goals must be subject to the collective good, just as the collective good should take individual preferences into account.

The most compelling objection seems to be that of Michael Sandel. For him, Rawls goes beyond Kant, on the grounds that a transcendental *self*, without empirical content, is sufficient. In Sandel’s words, this vision:

(...) embraces the priority of the right over the good, and even affirms the priority of the self over its ends. Where this view departs from Kant is in denying that a prior and independent self can only be a transcendental, or a noumenal subject, lacking altogether an empirical foundation.<sup>5</sup>

In the first place, it has to be demonstrated that, for Kant, it is possible to reach a empirical self, or subject, because this implies that it is possible to know the subject as it is in himself. The closest Kant gets to this is in the *Anthropology from a pragmatic point of view* (*Anth*), which consists in a series of observations about human behavior from an empirical point of view, but there is no proposition about the *essence* of man, or about its true nature. I cannot prove this thesis here. In the second place, the Rawlsian self does not completely lack an empirical foundation, only its empirical content is more social than individual in character. In other words, Rawls rejects foundationalism, which would consist in reaching the self in itself, and takes it in its broader social meaning, without disregarding its individual specificity.

<sup>2</sup> Charles Taylor. *The Sources of the self: The making of Modern identity*. New York: Harvard University Press, 1992; *As fontes do Self – A construção da identidade moderna*. Trad. Adail Ubirajara Sobral e Dinah de Abreu Azevedo. São Paulo: Loyola, 1997.

<sup>3</sup> Ibidem, p. 116.

<sup>4</sup> John Rawls, “Justice as Fairness: Political not Metaphysical” (1985), in: CP p. 388-414.

<sup>5</sup> Michael J. Sandel, *Liberalism and the Limits of Justice*, op. cit., p. 13.

Hence the objection, formulated in exactly the same terms:

For Rawls, the Kantian conception suffers from obscurity and arbitrariness, for it is unclear how an abstract, disembodied subject could without arbitrariness produce determinate principles of justice, or how in any case the legislation of such a subject would apply to actual human beings in the phenomenal world.<sup>6</sup>

Well, the abstract character of the original position, with its veil of ignorance, is never denied, and is even affirmed. It consists in a device, a mental experiment which makes possible to conceive the beginning of society. It is, of course, a contractual device. However, the making of society is not limited to this first moment, as I will next show.<sup>7</sup>

(2) *Rawls does not need a more complex conception of the self, given the priority of right over the good.* This means that principles set limits to the individual search for good. Besides, given his hypothesis, which is merely constructive and synthetic, according to which agents, that is, individuals, ignore their own positions in society, their chances in a future society, as well as the chances of the others, a richer conception of self than that made by him is not necessary because it is not the actual interests of the agents which are considered, at least at this stage. In subsequent stages, as the deliberation by local society, the making of the constitution, the laws and its implementation – the so-called four stages sequence –, the veil of ignorance is progressively withdrawn.<sup>8</sup> This nevertheless belongs to the details of the theory, and it is not the job of the philosopher to expose such details, far less to develop the psychology of average citizens.

Regarding the second group of critics, as exemplified by Scanlon, one can maintain that Rawls's theory works under the hypothesis of the self-interested agent, based on the theory of rational choice, within the scope of limiting the variable. In 1985 Rawls pleaded *mea culpa* for relying too heavily on the theory of rational choice.<sup>9</sup> However, one may wonder if the theory would have been so successful if he hadn't. As long as the subjects are not regarded as merely self-interested, but rather as

<sup>6</sup> Michael J. Sandel, *Liberalism and the Limits of Justice*, op. cit., p. 13..

<sup>7</sup> For a more detailed refutation of the arguments of Michael Sandel, cf. C. Kukathas e P. Pettit, *Rawls: "Uma teoria da justiça" e os seus críticos*. Trad. Maria de Carvalho. Lisboa: Gradiva, 1995, esp. p. 116-30.

<sup>8</sup> Briefly, the four stages are: the original position, or the stage of the choice of principles; the second, the elaboration of a constitution, by means of a constituent convention; the third stage is the legislative, in which the laws will be made taking in account the real, empirical world; and the fourth stage consists in the application of rules by judges and citizens.

<sup>9</sup> Em "Justice as Fairness: Political not Metaphysical", CP, p. 401, n. 20.

genuinely endowed with a capacity to benefit others in a disinterested way, things get harder. Rawls did not avoid these complications in subsequent works such as *Political Liberalism* (1993, 1996) or in *Justice as Fairness – A Restatement* (2000). However, there remains, in the original position, the need for a thick veil of ignorance. It is worth remembering, again, that the original position is a device, a mental experiment, to which one can appeal at any time to evaluate the justice or lack of justice of a given social situation. The more complex subject is introduced only in later stages of the development of a more just society.

In no other place does Rawls state so clearly the scope of his conception of person as in note 15 of “Justice as Fairness: Political not Metaphysical”:

It should be emphasized that a conception of the person, as I understand it here, is a normative conception, whether legal, political, or moral, or indeed also philosophical or religious, depending on the overall view to which it belongs. In this case the conception of the person is a moral conception, one that begins from our everyday conception of persons as the basic units of thought, deliberation, and responsibility, and adapted to a political conception of justice and not to a comprehensive moral doctrine. It is in effect a political conception of the person, and given the aims of justice as fairness, a conception of citizens. Thus, a conception of the person is to be distinguished from an account of human nature given by natural science or social theory. (...).<sup>10</sup>

So, it is sufficient, in fact, to acknowledge that the person has a sense of justice and a sense of good:

Since persons can be full participants in a fair system of social cooperation, we ascribe to them two moral powers connected with the elements in the idea of social cooperation noted above: namely, a capacity for a sense of justice and a capacity for a conception of the good.<sup>11</sup>

Thus, one cannot require of Rawls more than what he proposed to give within the limits of his theory. In order to demonstrate what has been suggested above, I will analyse some of Rawls's writings.

## II Sense of Justice

The paper “The Sense of Justice” was originally published in *Philosophical Review*, n. 3, July 1963. Though it already contains some of the major elements of the *Theory of Justice as Fairness*, it does not

<sup>10</sup> Em “Justice as Fairness: Political not Metaphysical”, CP, p. 397, n. 15.

<sup>11</sup> Ibidem, p. 397-398.

yet take into account the notion of Good, which was to be introduced later. More specifically, in “The Priority of Right and Ideas of the Good” (1988), Rawls was to explain the meaning of the priority of right (and not “justice”, as in 1963) over the Good, clarifying that the notions of Justice and Good are sufficient and necessary conditions for the stability of society. In this section, I will examine the paper of 1963, in order to show what the notion of justice means for Rawls. In the fourth section below, I will take a look at his paper of 1988.

The paper “The Sense of Justice” (from now on, SJ) contains eight sections. The first presents the debate. In the second section, Rawls answers two questions: 1) to whom is the obligation of justice due, i.e., in relation to whom should one regulate his/her own actions, taking into account the demand for justice; 2) what explain men compliance to the demands of justice?<sup>12</sup> From the third to the fifth sections, Rawls elaborates a psychological construction of the feelings of guilt in relation to authority, association, and principles. In the sixth section, he offers a digression on the concept of moral feeling. In section VII, he views the second question, just mentioned, from another point of view. While Rawls first examined the question from a “positive” perspective (section II), in the present section (VII) he considers that men resist doing what justice demands – which is the basis of the “veil of ignorance”, even if the expression is still absent. In section VIII, finally, Rawls returns to the first question, “To whom is the obligation of justice due, considering the notion of justice as sufficient and necessary to explain that obligation?”

In section II, then, Rawls gives a first answer to both questions:

These two questions are: first, to whom is the obligation of justice owed? – that is, in regard to whom must one regulate one’s conduct as the principles of justice require? – and second, what accounts for men’s doing what justice requires? Very briefly, the answers to these questions are as follows: to the first, the duty of justice is owed to those who are capable of a sense of justice; and to the second, if men did not do what justice requires, not only would they not regard themselves as bound by the principles of justice, but they would be incapable of feeling resentment and indignation, and they would be without ties of friendship and mutual trust. They would lack certain essential elements of humanity.<sup>13</sup>

In order to cope with these two questions, Rawls presents the principles of justice, as previously defined, in “Justice as Fairness” (1958). These principles were to be restated constantly throughout John

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<sup>12</sup> SJ, in: John Rawls, *Collected Papers* [from now on, CP], org. Samuel Freeman. Cambridge, Mass./London: Harvard University Press, 1999, p. 96-116, p. 96.

<sup>13</sup> SJ, p. 96.

Rawls's career, but their essence remained the same. There are different formulations of the same principles. This is analogous, *grosso modo*, to the different formulations of Categorical Imperative in Kant's *Foundation of Metaphysics of Morals (GMS)*. Here, in 1963, these principles are expressed as follows:

- (i) each person participating in it or affected by it has an equal right to the most extensive liberty compatible with a like liberty for all; and
- (ii) inequalities (as defined and permitted by the pattern of distribution of rights and duties) are arbitrary unless it is reasonable to expect that they will work out for everyone's advantage and provided that the positions and offices to which they attach, or from which they may be gained, are open to all.<sup>14</sup>

It is clear here that the formulation of the principles is extremely flexible, depending on the purpose of each paper, and the emphasis the author wishes to give each time. In discussing this formulation, and aiming at his analytical construction, Rawls begins from a situation in which the agents know their position and chances in the present and future societies, as well as of the others positions and chances. In other words, the veil of ignorance is absent in this version, because it is considered that men can wish to follow the principles of justice, even if they know the advantages and disadvantages that they would have in the present and the future. As we will see, in section VII of his paper, he will examine the same discussion starting with the opposite presupposition, i.e., that men are *only* self-interested. The partial answer to the first question is that men owe an obligation, based on reciprocity, to those endowed with a sense of justice. Regarding the second question, it follows that they attend to the requirements of justice because they are endowed with a sense of justice – without this, they would be deprived of something constitutive of mankind. The argument, therefore, supposes a substantive conception of morality, as will be shown.

Section III focuses on guilt related to authority (*authority guilt*). Rawls's distinction between three kinds of feeling of guilt – linked to authority, association, and principle – is based on Jean Piaget, more specifically, on Piaget's *The Moral Judgment of the Child*.<sup>15</sup> The feeling of guilt connected to authority emerges basically when the child, the

<sup>14</sup> SJ, p. 98. It is important the observation Rawls makes in parenthesis, immediately after the above quote: "(I state these principles here and sketch their derivation as they are used in the formulation of the psychological construction. *The idea underlying this derivation I shall call the conception of justice as fairness.*")". My italics (LPR).

<sup>15</sup> Jean Piaget, *The Moral Judgment of the Child*. Londres: Routledge and Kegan Paul, 1932), quoted in Rawls, SJ, p. 100, n. 5; Piaget, J. *Cinco estudos de educação moral*. São Paulo: Casa do Psicólogo, 1996.

future grownup, having received sufficient care and attention, develops guilt when she disobeys or defies her parents' authority. This respect for authority being developed satisfactorily, the child, and afterwards the grownup, will seek to confess her mistake and ask for forgiveness for the act, or the acts, committed. In Rawls's words, "(...) those subjects will manifest what I shall call authority guilt when they violate the precepts set to them."<sup>16</sup> This psychological "foundation" presented by Rawls, sketchy as it is, is also based on Rousseau's *Emile*. In short, the child/grownup has the tendency to give back the love she received, based on her "evident intention of helping us" (Rousseau).

In other terms, given a stable, "well-ordered" society, as Rawls will later say, there is a compromise for the sake of preserving society, nurtured by the feeling of guilt related to authority, provoked by the desire to disobey, or by the real disobeying. As Rawls states, "One who is ashamed redeems himself by successful achievement, but one subject to authority guilt wants to be forgiven and to have the previous relation restored."<sup>17</sup> The lack of these feelings "would manifest an absence of love and trust"<sup>18</sup>. The problem with this condition is that it presupposes too much, it expects too much on the part of the agent. This is a problem the veil of ignorance would avoid.

Concerning the feeling of guilt related to association, focused on section IV, it consists in a sort of extension of the first kind of guilt. It is guilt for not having responded to the expectation, for having betrayed the trust of the partners of a common project. The first psychological law being that of the correspondence to parental love, related to the feeling of guilt for not fulfilling the expectation placed on the subject, the second law is the feeling of partnership and trust generated by a relation of cooperation between one or more members of society. Then, given the rules of this relation, if a person fails to do his part he will experience feelings of association guilt"<sup>19</sup>.

An interesting issue raised by Rawls concerning this second psychological law is that there can emerge two kinds of instability related to its lack of fulfillment. The first kind occurs when, the others having complied with their lot, the temptation of non-compliance arises on his/her part. It could be commonly termed as the "law of minimum effort". The second kind of instability occurs when one notices that the others tend to not fulfill their part, it is advantageous for him or her to be the first not to fulfill it. The solution for this can be Hobbesian. As Rawls notes:

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<sup>16</sup> SJ, p. 101.

<sup>17</sup> SF, p. 102.

<sup>18</sup> Ibidem.

<sup>19</sup> SF, p. 103.



One way of interpreting the Hobbesian sovereign is as an agency added to unstable systems of cooperation in such a way that is no longer to anyone's advantage not to do his part given that others will do theirs.<sup>20</sup>

The Rawlsian presupposition, however, at least in this first approach of the issue, is that "The generation of feelings of friendship and mutual trust tends to reinforce the scheme of cooperation".<sup>21</sup> In other words, this version is closer to a Lockean civil society, beginning with the presupposition of an initial harmonic state. Nevertheless, we know that this will not be considered sufficient.

The third psychological principle presented by Rawls in this article is that of *principle guilt*. This third psychological law receives the following formulation:

(...) given that the attitudes of love and trust, friendly feelings and mutual respect, have been generated in accordance with the two previous psychological laws, then, if a person (and his associates) are the beneficiaries of a successful and enduring institution or scheme of cooperation known to satisfy the two principles of justice, he will acquire a sense of justice.<sup>22</sup>

A universalization element, one of decentering, absent in the two first principles, is introduced here. However, it is important to notice that if this law is generated by the two previous psychological laws, the individual comes first. Therefore, when talking of the priority of right over good, we refer to a deontological priority, though not a genetic one. In other words, it is necessary to consider the good of society *in toto*, but having as its starting point the knowledge of the singular individual, with her desires and the subsequent valorization of primary goods.

Rawls goes further than this, saying that only this third principle, or law, is moral proper. "One might say that principle guilt is guilt proper. It is, as the two previous forms of guilt were not, a complete moral feeling."<sup>23</sup> The Kantian influence and deontological character of Rawlsian moral theory is evident here. Remember that, for Kant, only actions made by duty are really moral.

I leave aside here the exposition about moral feelings, as analysed by others. I limit myself to pointing out that it can also be found in Rawls' article, "The Sense of Justice",<sup>24</sup> as for instance in the following quote:

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<sup>20</sup> SJ, p. 104.

<sup>21</sup> Ibidem.

<sup>22</sup> SJ, p. 105.

<sup>23</sup> SJ, p. 106.

<sup>24</sup> SJ, p. 107-109 e passim.

The thought here is that, by definition, a natural attitude and a moral feeling are both orderings of certain characteristic dispositions, and that the dispositions connected with the natural attitudes and those connected with the moral feelings are related, in such a way that the absence of certain moral feelings implies the absence of certain natural attitudes; or, alternatively, that the presence of certain natural attitudes implies a liability to certain moral feelings. These propositions are necessary truths: they hold in virtue of the relations between the concepts of the moral feelings and the natural attitudes.<sup>25</sup>

My intention here was only to show that there *exists* a theory of moral feelings in Rawls. Of course, it is maybe not original, and is based on, among others, Rousseau, Kant, Freud, Piaget, Wittgenstein, Moore, and Anscombe.

### III Conception of subject in TJ

In the first place, it is worth noticing that the article “The Sense of Justice” is for the most part incorporated in TJ, Chap. VIII, §§69 e ff. There apparently Rawls pays more attention to the discussion of stability, even if he admits that “the criterion of stability is not decisive”.<sup>26</sup> He again takes the three psychological “laws” related to the feelings of guilt concerning authority, association, and principles. He recognizes that “moral sentiments are necessary to insure that the basic structure is stable with respect to justice”.<sup>27</sup> Here, however, instead of resuming this discussion, already treated more extensively, I prefer to focus on §85 of TJ, “The Unity of the Self”.

In this section, Rawls argues that the unity of the self is produced, in contractual doctrines, and particularly in the Theory of Justice as Fairness (TJF), by consensus over the principles of justice, since teleological principles, such as those of happiness and utility, are absent. The original position, with its “veil of ignorance”, limits the comprehensiveness and range of the ends pursued by individuals. Besides, the priority of the right over the good makes the social good eventually to subordinate individual aims. So, the specific differences between the selves are not so important in TJF as they are in Hedonism or Utilitarianism.

The difference between the individual and the social case is that the resources of the self, its mental and physical capacities and its emotional sensibilities and desires, are placed in a different context. In both

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<sup>25</sup> SJ, p. 109.

<sup>26</sup> TJ, § 69, p. 455. I always employ the 1971 edition, except when indicated otherwise.

<sup>27</sup> TJ, § 69, p. 458.

instances these materials are in the service of the dominant end. But depending on the other agencies available to cooperate with them, it is the pleasure of the self or of the social group that is to be maximized.<sup>28</sup>

This explains why Rawls does not *need* a more elaborate theory of the self, or of subject, because the characteristic of his theory, having a contractual basis, dismisses a more complex theory. This does not mean that he does not have one, or that he dismissed it for lack of knowledge or interest. The priority of the right (or of justice) over the good defines already the limited, but real, range of individuality in the theory of Rawls. In other words, “The essential unity of the self is already provided by the conception of right”.<sup>29</sup> And he proceeds:

Moreover, in a well-ordered society this unity is the same for all; everyone’s conception of the good as given by his rational plan is a subplan of the larger comprehensive plan that regulates the community as a social union of social unions.<sup>30</sup>

Thus, in TJF, one can presuppose a unit of the self: “The nature of the self as a free and equal moral person is the same for all, and the similarity in the basic form of rational plans expresses this fact.”<sup>31</sup>

#### IV The priority of the right and ideas of the Good

I will analyze, finally, an article of 1988, “The Priority of Right and Ideas of the Good”. Here, we will be able to make a partial appraisal of the evolution of TJF regarding the conception of the subject, the theme of this talk.

More objectively than in the writings previously analyzed, the motive of the priority of the right over the good became clear here. We can start with the following statement:

(...) in justice as fairness the priority of right implies that the principles of (political) justice set limits to permissible ways of life; hence the claims citizens make to pursue ends that transgress those limits have no weight (as judged by that political conception).<sup>32</sup>

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<sup>28</sup> TJ, §85, p. 562.

<sup>29</sup> TJ, §85, p. 563.

<sup>30</sup> *Ibidem*.

<sup>31</sup> TJ, §85, p. 565.

<sup>32</sup> John Rawls, “The Priority of Right and Ideas of the Good” (from now on, “Priority”), in: CP, p. 449.

This does not mean, however, that the citizens' preferences have no role whatsoever: they have a role, within the established limits. In other words, they are the so-called permissible actions.<sup>33</sup> From the point of view of motivation, total liberty must be given to actions and ends that are within the range of the permissible, and even of the desirable: "justice draws the limit, the good shows the point".<sup>34</sup>

It is important to notice also that TJF is a political, not a metaphysical conception, as we can read in the title of his writing of 1985.<sup>35</sup> This implies equally that, even if it begins with a moral conception, TJF is mainly a political conception. In other words, the motivation for the making of this theory is moral, because the issue is the justice of societies. However, to make it possible, and to reach an overlapping consensus, this conception must be political. Political here has both the meaning of practical, in the sense of Kantian practical reason, and the common meaning of negotiation, bargaining, science which deals with *polis* as a sign of human sociability.

After that, later in the paper, Rawls resumes this idea, in order to make it clearer:

(...) the priority of the right does not mean that ideas of the good must be avoided; that is impossible. Rather, it means that the ideas used must be political ideas: they must be tailored to meet the restrictions imposed by the political conception of justice and fit into the space it allows.<sup>36</sup>

It must be recalled that this is a liberal conception, and, as such, liberty, and especially individual liberty must be preserved, even if the kind of liberty implied by the idea of the priority of the right over the good is a republican liberty (*res publica*), or political, in the sense that the collectivity prevails over the individual. Even so, one cannot give up liberty in the name of future economical assets. In this way, the ground of individual liberty is preserved.

(...) without widespread participation in democratic politics by a vigorous and informed citizen body, and certainly with a general retreat into private life, even the most well-designed political institutions will fall into the hands of those who seek to dominate and impose their will through the state apparatus either for the sake of power and military glory or for reasons of class and economic interest, not to mention expansionist religious fervor and nationalist fanaticism.<sup>37</sup>

<sup>33</sup> One can remember, in this context, the distinction Kant made between *meritorious*, *due* and *guilty* acts. Cf. I. Kant, *Metaphysik der Sitten*, MS, AB 28.

<sup>34</sup> *Ibidem*.

<sup>35</sup> John Rawls, "Justice as Fairness: Political not Metaphysical", in: CP, p. 388-414.

<sup>36</sup> "Priority", p. 467.

<sup>37</sup> "Priority", p. 468-469.

Thus, TJF maintains the balance, keeping safe distance from both sides, between the more extreme versions of Liberalism, such as those of Hayek or Nozick, to mention only two, and autocratic forms, either of Marxist or of Fascist tonalities. So, there is a choice. Political liberalism does not pretend to be neutral, either from the procedural point of view, or from the political perspective. Only by means of reflexive equilibrium does it hold that it is possible to reach an overlapping consensus, in which the main positions in the debate can give up their too specific differences, in the name of the common good. In this manner, justice as fairness “elaborates a political conception working from the fundamental intuitive idea of society as a fair system of cooperation”.<sup>38</sup>

## Conclusion

I have tried to argue in this paper that Rawls does have a conception of person which is sufficient for his purposes: justice as fairness, even if it has a starting point a moral basis, is a political conception. So, the conception of person which Rawls needs allows him to construct the basis for a theory of justice, which he realizes in his work, especially in *A Theory of Justice* (1971).

Notwithstanding the criticisms received, and the restatements which he imposed on himself, his theory maintained essentially the same lines of the work of 1971, with some revisions, indicated in the preface to the revised edition, of 1999.

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