



## DEMOCRATIC EQUALITY AND RAWLS'S CRITICISM OF WELFARE STATE CAPITALISM

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**Abstract:** Despite the accusation of developing an abstract theory, detached from real conditions, depoliticizing, and ultimately inclined towards the status quo, Rawls did not fail to analyze, since 1971, the political-economic conditions in which his theory could become viable. The analysis of this topic concludes with the statement that the principles and ideals of his theory could not be satisfied under capitalism in any of its forms.

This article discusses the possibilities of making justice as fairness compatible under a capitalist welfare state and shows that the reasons Rawls presented for denying this possibility remain perfectly valid. The difficulties of a capitalist welfare state to curb the tendencies of capitalism towards undemocratic inequality make this system unacceptable. The article defends that, although it is a noble ideal to prevent anyone from falling below a certain social minimum, the requirements of the principles of justice are much more demanding. The article concludes by defending Rawls's methodology and main arguments and shows that far from having depoliticizing effects, justice as fairness allows us to broaden the political imagination both to denounce the highly oligopolistic character of capitalist economies and to combat the ubiquitous inclination of neoliberalism towards economic efficiency as an all-encompassing value.

**Keywords:** Capitalist welfare state; capitalism; democratic equality; justice as fairness.

**Resumo:** Apesar de ter sido acusado de desenvolver uma teoria abstracta, desconectada de condições reais, despoliticizante e, ao fim e ao cabo, favorecedora do status quo, Rawls não deixou de analisar, desde 1971, as condições político-económicas que tornariam a sua teoria viável. A análise deste tópico conclui-se com a afirmação de que os princípios e ideais da sua teoria não poderiam ser satisfeitos sob o capitalismo, em qualquer uma das suas formas.

Este artigo discute a possibilidade de tornar [o ideal da] a justiça como equidade compatível com um estado de bem-estar social capitalista e demonstra que as razões aduzidas por Rawls para negar tal possibilidade permanecem perfeitamente válidas. As dificuldades de um estado de bem-estar capitalista para contrariar as tendências do capitalismo para desenvolver desigualdades antidemocráticas tornam este sistema inaceitável. O artigo defende que, embora seja um nobre ideal impedir alguém de cair abaixo de um determinado mínimo social, os requisitos dos princípios de justiça são muito mais exigentes. Este artigo conclui defendendo a metodologia de Rawls e os seus principais argumentos e demonstra como, ao invés de ter efeitos despoliticizantes, a justiça como equidade permite-nos alargar a nossa imaginação política de modo a, tanto denunciar

o carácter altamente oligopólista das economias capitalistas como a combater a tendência ubíqua do neoliberalismo para elevar a eficiência económica ao estatuto de um valor a que tudo se deve subordinar.

**Palavras-chave:** estado de bem-estar social capitalista; capitalismo; igualdade democrática; justiça como equidade.

## 1. A Few Initial Objections

Some of the sharpest criticisms leveled against the Rawlsian theory of justice challenge the adequacy of a speculative methodology conceived in a philosophical realm separate from the social reality of any community. The ideal nature of this theory would move away from both material and empirical real-world conditions creating an "ever-widening chasm" between political philosophers and politics (Forrester, 2021, p. xviii).

Critics claim this methodology would be inappropriate for several reasons: firstly, because it tries to fit universal principles based on abstract men and women in concrete communities populated with subjects of flesh and blood and with particular ways of life (Walzer, 1981). Moreover, individuals are conceived as mutually disinterested rational beings prior to and independent of experience. Rawls's conception of the self would disregard the importance of personal identities and loyalties. Sandel (1984) discussed the idea of unencumbered subjects that Rawls handles because it does not define who we truly are or who we aspire to be. What defines us and what we appreciate most is precisely what Rawls neglects: attachments to friends, family, community. Similarly, institutions are understood merely as abstract objects in a vacuum, that is, as possible forms of conduct expressed by a system of rules (Rawls, 1999, p. 48).

On the other hand, the value of the theory has been called into question because this non-situated way of understanding ideal rights and duties seems to take precedence over historical rights, which are the result of negotiations and historical struggles. Regarding the worth of ideal political theories, what real people appreciate are not the theoretical legacies received from isolated philosophers, but the practical goods they have been able to conquer with their own effort and dedication: "it is not only the familiar products of their experience that the people value, but the experience itself, the process through which the products were produced" (Walzer, 1981).

The political designs that philosophers present to communities deserve to be viewed with some suspicion, since they can become attempts to impose policies that ignore the capacity for struggle, negotiation and democratic control that legitimately belongs to citizens. This ideal way of understanding political philosophy would focus on the elaboration of correct and universal principles of social organization in the hope that the truth of research will end up materializing in some way in laws, practices, or institutions: "are these the laws of nature? Enact them. Is this a just

scheme of distribution? Establish it. Is this a basic human right? Enforce it. Why else would one want to know about such things?" (Walzer, 1981).

The shift to abstraction and the use of hypothetical modes of justification to produce valid principles would have negative depoliticizing effects. Rawls has been accused of blurring the distinction between two entirely different realms: philosophical validation and political authorization (Walzer, 1981). Deliberative democratic theorists assert that when idealist philosophers present principles of justice prior to the establishment of a community's political system, what they are doing is to disparage the relevance of political deliberation in the democratic arena. Before accepting any principles, people might want to deliberate about the form they wish to give to their social, political, and economic institutions. Disrespecting the primacy of a dialogical approach (Habermas, 1995) is inconsistent with the idea of democratic sovereignty, it demotes democratic processes to a lower status and it is also a way to encourage a technocratic administrative form of politics (Forrester, 2021, p. 235).

Other authors (Shklar, 1990; Anderson, 2013; Mills, 2014) consider that Rawls's ideal theory can be unnecessary or misleading to address unjust societies. Non-ideal theory should take logical and chronological precedence over the ideal theory, which would be inapplicable in unjust societies. The primary focus of a realistic political theory, according to these authors, should be the injustices that surround us, including those of global scope (Blanco, 2021). A theory of social justice cannot arise from pre-social conditions but from a social dialogue in which the testimonies and the voices of the victims of injustice are carefully heard.

Besides, while the ideal theory is polished and adjusted, the existing injustices, prejudices, gender inequality, disability injustice, environmental injustice, and other non-state relations of discrimination or domination are neglected as topics of interest, which could give this approach a conservative bias.

## **2. In Reply to Critics**

In reply to these critics, we need to remember that Rawls is aware of the differences between ideal and non-ideal theories and only tries to avoid the practical distractions of the empirical world to delve into the fundamentals. The idea of focusing analysis on ideal theory does not mean forgetting the injustices of the real world. Rawls simply tries to establish the conditions from which to make the transition from the imperfect non-ideal conditions to more just results. It can then be said that the non-ideal theory depends on the ideal theory, since the latter presents the guiding criteria for assessing whether something is fair or not. The fact that there are injustices all around us cannot be denied and people might be tempted to think they do not need a theory of justice to resist injustice, but they certainly do need it to set appropriate standards to help them assess them and eventually overcome them.

It is true that Rawls makes idealizing assumptions, but idealization is essentially a methodology employed to simplify complex problems, not a description of the actual world. Empirical sciences also work with simplified models, not with complete accounts of reality.

It is certainly reasonable to state that we cannot detach ourselves from our identities, associations, loyalties, and communities and that our conceptions of the good do not emerge *ex novo*. However, all the multiple conceptions of the good need to be framed within definite limits and that is where ideal theory can help (Rawls, 1999, p. 493).

The criticism that points to the historical origin of rights and freedoms is undoubtedly accurate. We would not have the current political and social rights without the activist strength of the labor movement and unions defending the interests of the working class or without the struggle of the suffragettes for the right to vote equally. But these historical realities cannot be used either to underestimate the role of ideas or to place them as a mere excrescence of action. They are a sign that critical-normative thinking and political actions are two realities that can converge to build new realities.

Rawls does not intend to substitute political debate by appealing to the philosophical validity of the principles of justice, but rather to illustrate it. His is not the definitive theory of justice designed to close once and for all the political discussions, but one more theory among others, which can be useful in those debates. What Rawls does is to share with his fellow citizens an articulated conception of democracy and equality that can allow them to refine their judgment. His intention is not to close the debate but to enrich it. Political participation is not eliminated when elaborate ideas on issues of special political relevance are presented. It is the citizens who can take them into consideration and who have the last word to decide how the theory can help them in the legitimate exercise of their political action. Rawls is not telling others what to think any more than anyone else who offers an opinion on significant matters (Freeman, 2020).

In fact, Rawls's idea of liberty implies the autonomy and equality of all political actors. Not surprisingly, the idea underlying classical contractualism that Rawls is developing is that the members of society are responsible for designing and accepting the political and social institutions that regulate and shape their everyday lives (Freeman, 2007, p. xi).

As it is well known, Rawls argues that his work aims to generalize and carry to a higher order of abstraction the traditional conception of the social contract (Rawls, 1999, pp. xii, xviii). The parties in the original position are merely rationally autonomous artificial persons designed to inhabit the original position, which cannot be mistaken for real people (Rawls, 2005, p. 75). The original position is nothing more than a device of representation, an artifice of

reason that can help citizens deliberate about the justice of their institutions. The content of the relevant agreement in that position is not the adoption of a specific form of government for a given society, but the hypothetical acceptance of first principles in such an initial situation (Rawls, 1999, p. 14). Justice as fairness is a theory of justice that can help us clarify our political judgments, it is not a theory of political systems (Rawls, 1999, p. 199). The Rawlsian methodology employs a normative logic that does not have one direct political translation.

### **3. From the Theory to the Choice of the Economic System**

Justice as fairness employs a high level of abstraction and does not defend, let alone impose, a particular political framework or an economic system. However, it does contain certain normative limits to sociopolitical institutions. The theoretical debate on justice would be inconclusive if the mode of production were not addressed. The injection of economic thought in political theory is not only necessary but a sign of realism.

One of the keys to addressing the socioeconomic model that Rawls supports with his principles of justice can be found with the help of the principle of democratic equality and the principle of reciprocity. According to this ideal, a social order of free and equal citizens who establish the fair terms of cooperation cannot be interpreted as a means for the achievement of individual private benefits. The principles of justice do not aim at securing the most desirable prospects for the most advantaged members unless it is to the benefit of the worst-off. Democratic equality links the egalitarian requirements of the second principle of justice with the democratic ideal of the first. The common force of both principles can avoid inclinations towards what we might call an antidemocratic inequality. In his *Theory of Justice* of 1971, Rawls makes an initial distinction between the two models taken as ideal types: the model of public ownership of the means of production, with greater weight of the public sector, and the model of private property of the means of production or property-owning democracy, where the public sector plays a minor role. In the first, there is the planning of some economic activities, whereas in the second, it is the market that decides what is produced and at what price. Rawls (1971) rejects establishing a necessary connection between economic systems and public policies. The idea is that fitness to realize the two principles of justice does not depend on a specific model of ownership of the means of production. Both with an economic regime governed by employers or entrepreneurs as in another directed by managers chosen by the workers, it would be possible, at least theoretically, to carry out an adequate political protection of public goods such as health, education, infrastructure, or defense. The same applies – Rawls continues – to the protection of rights and freedoms, the provision of opportunities, the management of natural resources or the distribution of the benefits of social cooperation. All these could be adequately managed, in principle, in either of the two systems. Rawls insists that his theory remains neutral in this matter because the

requirements of the principles of justice could be satisfied in both economic frameworks. The choice of the economic system remained unanswered, and we could not find any indications of which of both pure ideal systems could be more adequate to satisfy the principles of justice. We can raise two objections to this position: the distinction between the two ideal economic models is too imprecise, as there are more possible economic frameworks, and the lack of correlation between the economic framework and the management of rights and public goods can also be questionable. However, the revised edition of the theory (1999, p. xiv) will introduce further details: it will draw a dividing line between property-owning democracy and welfare-state capitalism. Both share private ownership of the means of production, but the fundamental difference lies in the different depth with which they undertake the need to prevent the oligarchic tendencies of capitalism.

Rawls says the capitalist private property of the means of production is not a right protected by the priority of the first principle (Rawls, 1999, p. 54). Conversely, justice as fairness includes no natural right of workers to own and manage firms. The indeterminacy remains and the choice is to be decided in light of the circumstances of each country (Rawls, 1999, p. xvi).

The principles of justice are still insufficient to establish a preference for either property-owning democracy or liberal socialism but at least progress has been made on one issue: Rawls states that a capitalist state is incompatible with the requirements of the principles of justice.

Further details on the question can be found in *Justice as Fairness. A Restatement*. Here we are presented with five political, social, and economic systems: a) laissez-faire capitalism; b) welfare-state capitalism; c) command-economy “state” socialism; d) property-owning democracy and e) liberal (democratic) socialism (Rawls, 2001, p. 136). The dividing line is established between the first three and the last two. The former are models incapable of realizing the principles of justice, while the latter, the liberal socialist model and property-owning democracy, would satisfy them. It is relevant to analyze the reasons why the capitalist welfare state option is ruled out.

#### **4. Rawls's Criticism of Welfare State Capitalism**

This political-economic organization is halfway between property-owning democracy and laissez-faire capitalism. In contrast to the latter, it looks for ways to temper the rigors of capitalism, weakening the mythical and quasi-absolute character of the right to private property (Murphy & Nagel, 2002), but the problem is that it maintains utilitarian maximization principles (Freeman, 2013).

Certainly, the capitalist welfare state presents three main advantages: a) it ensures a social subsistence minimum to eradicate extreme poverty, b) it guarantees the effective right to material subsistence and c) it prevents people from falling into desperate situations. These three are political goals that increase the opportunities of those who would otherwise be condemned to social marginalization. The welfare state has a safety net that ensures that no one falls, whether by accident, illness, loss of employment or bad fortune, below a certain threshold of quality of life. Well-being is achieved by ensuring citizens have access to what is necessary to lead decent lives: food, housing, health, education, or transportation, to name just some of the most basic. All these would be neglected in a model of libertarian capitalism. However, although the basic needs can be generously covered by abundant welfare provisions, the principle of reciprocity is not considered to regulate inequalities (Rawls, 2001, p. 138).

Welfare-state capitalism replaces the difference principle with a restricted utility principle that combines the average utility principle with the establishment of a social minimum, under the assumption that this will result in greater economic prosperity for the greatest number. This mixed model allegedly generates greater economic prosperity and the additional wealth would trickle down from the most to the least advantaged.

Rawls is right to object: the welfare state is still a capitalist state and as such, it is structurally inclined to the concentration of property and natural resources in the hands of the few. Welfare-state capitalism “permits a small class to have a near monopoly of the means of production” (Rawls, 2001, p. 139). When the capital is largely controlled by a relatively small number of individuals, the system is prone to the creation of large inequalities of income, wealth, and power, which creates a gap between the owners and non-owners.

Those with greater wealth use their money and resources (donations, campaigns, lobbies, mobilization of organizations, volunteers, contacts...) to exert their political influence and defend their interests, which tend to be opposed to those of the groups with lower economic status (Scanlon, 2020, p. 135).

There is evidence that shows that inequality increases the power of the affluent to shape politics in their own favor. Differences in policy preferences tend to be resolved in contemporary democracies with policies closer to those of groups with higher income levels, leaving the interests of the middle and lower sectors politically underrepresented (Gilens, 2005).<sup>1</sup>

Let us think, to name but one example, of the connections between large multimedia communication groups and the economic and financial elites, whose undeniable political influence is detrimental to free democratic expression. The affluent are more likely to oppose social policies and use their advantageous ability to manipulate policymaking to defend reductions in welfare policies. That explains why the promotion of private industry is

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<sup>1</sup> Data extracted from about two thousand survey questions in the United States between 1981 and 2002.

considered preferential. Policies are inclined to increase aggregate wealth by raising the flexibility of the labor market at the expense of issues such as public health, educational spending, workers' wages, the quality of jobs or social protection, which are considered secondary. In the medium and long term, these policies end up benefiting the most advantaged sectors of society, contributing to increased social polarization (Navarro, 2015).

There is a causal relationship between the accumulation of wealth, the prevalence of preferences of the wealthy, the weakening of social programs and the inability to universalize the exercise of civil and political rights. The political over-representation of the richest causes an incessant erosion of the safety nets designed to meet the needs of those who, due to their diminished economic situation, are underrepresented.

This political situation depresses active political engagement and participation in elections among all but the wealthiest. The affluent make politics meaningless for those with lower incomes. When the worst-off perceive that they cannot exert their legitimate political influence to defend their interests, they can either withdraw into apathy or generate revolts that threaten the stability of peaceful coexistence (Rawls, 1999, p. 198). In both cases, eroding the institutional stability necessary for the maintenance of a reasonably just society and with profound negative effects on the moral quality of civic life (Rawls, 1999, p. 205).

On the other hand, self-respect is a primary good that refers both to worth and competence (Gecas, 1982). While the first dimension refers to how people value themselves, the competence dimension is related to what people see themselves as capable of doing (Cast & Burke, 2002). The sense of political competence of the average citizen is an important part of the social bases of self-respect. This good needs to be politically fostered in both dimensions, beyond the personal or associative scope in which each subject develops their daily activities. Both are developed when people see themselves as fully cooperating members of society capable of pursuing a worthwhile conception of the good over a complete life, which is closely related to the respect and mutuality shown by institutions and others (Rawls, 2005, pp. 318–319).

Those lacking self-respect are unable to interact with their fellow citizens as independent equals, such as reciprocity requires. The social bases of self-respect are obtained when everyone, regardless of social or economic position, can look others in the eye, confident of knowing where they stand (Pettit, 2002, p. viii). The social bases of self-respect lay the foundations for civic friendship and shape the egalitarian ethos of the political culture (Rawls, 1999, p. 205).

The minimum level of welfare is not enough to avoid accredited psychic and social unrest linked to relative inequalities: mental health cases (Miranda-Ruche, 2018), increased crime, school failure, drug addiction, violence,



teenage pregnancies, higher rates of prison population, decreased life expectancy and lower mutual trust (Wilkinson & Pickett, 2010).

The lack of fairness in the distribution of material resources has negative effects on the psychological well-being of people. Relative deprivation is experienced as an offense by those who suffer it and it also affects the quality of social relationships. The distance between classes generates fragmented societies, with a weakened social bond.

Those continually depending on welfare might feel discouraged, criticized, and excluded from the cooperative process of production and might even be regarded as an underclass. The political effects of these anomalies reduce public trust in institutions and erodes political stability.

The inability of capitalist welfare states to reverse the persistence and widening of social inequalities shows why Rawls believes they are unable to prevent the emergence of a self-reinforcing cycle. Present inequalities lead to policies that pave the way to future inequalities. The foreseeable accumulation of power in the hands of an economic oligarchy and the political dominance of elites violates both the fair value of political freedoms and the fraternal requirement of the difference principle: not wanting to enjoy greater advantages unless it is to the benefit of those who are less well off (Rawls 1999, p. 90).

Economic inferiority and underrepresentation feed back into a spiral that tears apart the democratic principle and brings democracy closer to plutocracy. Therefore, we can conclude that the quality of democracy is at risk when a society does not undertake the task of distributing its resources equally (Solt, 2008).

The social policies of welfare states under capitalism are subject to continuous pressures and demands from regional and global economic forces. In the neoliberal global framework, capital struggles to get rid of the regulations and rigidities of state policies, advocating the expansion of deregulated and flexible spaces in which interventions are minimized. The neoliberal orthodoxy asserts that the policies of states should be limited as soon as they obstruct economic growth. Proponents of neoliberalism claim that all forms of social solidarity, from public enterprises or social programs to trade unions, hinder economic growth and must be dissolved in favor of individualistic policies based on atomistic principles such as personal responsibility and self-care under what can be accurately described as the neoliberal mandate for self-promotion in marketized settings (Ravecca & Dauphinee, 2022).

Tensions between economic and corporate interests on the one hand and democratic political forces on the other tend to settle in favor of the economic framework. The pressures of global capital on state policies erode the political objectives of redistribution of wealth. Some of the programs of social protection and equalization of opportunities lose strength and end up being reduced to merely formal rights.

The preeminent role of free markets, theoretically presented as the most effective way to foster efficiency, competition, and innovation, ends up being a tool for the consolidation of monopoly power that blurs the necessary democratic equality (Harvey, 2007, p. 26). The consequences of the promotion of entrepreneurial initiative are, among others, the greater freedom for markets, the deregulation of areas of public interest (transport and communications), tax cuts and budget cuts. Commitments to the redistribution of the welfare state fade with the progressive privatization of public enterprises.

Rawls accuses welfare-state capitalism of failing to deliver social justice: it neither protects the fair value of equal political liberties nor the fair value of equality of opportunity, which undermines the social bases of self-respect (Rawls, 2005, p. 82). Here, the adjective “fair” can be understood as the opposite of “formal”: liberties and opportunities cannot be purely formal, they need to be useful to citizens. This is a criticism raised by radical-democrats and socialists: “while it may appear that citizens are effectively equal, the social and economic inequalities likely to arise” erode the value of rights and freedoms and undermine the background of justice (Rawls, 2005, p. 325). If this fair value is not protected, just background institutions are unlikely to be established or maintained.

The fair value of equal opportunities can be altered in many ways. Of course, the most obvious of these is the inability to act as active citizens when individuals lack the most elementary means of basic survival, when they suffer food deprivation or lack clothing or shelter. Severe poverty impedes the exercise of the most basic rights in a meaningful way.

Nevertheless, it is not only these desperate situations that prevent individuals from exercising their most basic rights. In addition to poverty, inequality certainly obstructs the meaningful exercise of equal political freedoms. Therefore, in order to maintain the fair value of political liberties, and besides guaranteeing the most basic democratic rights (the right to vote and to stand for public office, freedom of speech and association, freedom of thought and liberty of conscience), it is essential to enhance public participation so that those with similar endowments and motivations have approximately the same chance of attaining positions of political authority regardless of their economic and social class (Rawls, 1999, p. 197). That implies equal opportunities to access quality education, culture and knowledge, to acquire educated abilities and trained skills, together with social security and health care measures to prevent people who hold positions of responsibility and political positions from coming only from the most advantaged sectors of society (Rawls, 1999, p. 200).

Regarding political representation, public financing of elections is paramount, as well as constraints on private funding (Rawls, 2005, p. 235). Government monies and resources should be provided regularly to make sure political discussion is autonomous with respect to private demands (Rawls, 1999, p. 198). That includes giving political parties sufficient tax revenues and fair access to public broadcasting. Keeping the fair value of political

liberties requires money and if societies do not bear the costs, private funds will do it to their advantage (Rawls, 1999, p. 199).

In the long term, political liberties require limits to the accumulation of property with laws of inheritance and other means of redistribution to guarantee the steady dispersal of capital and resources over time. There is a double objective here: to disperse economic power and make citizens independent from the volatility or arbitrariness of the markets. (O'Neill, 2019). In this respect, the inability of the capitalist welfare state is clear: the bulk of redistributive measures is not put into operation at the start (*ex ante*), but only *ex post*, after the possible recipients have been identified through means-tests (Rawls, 1999, p. xv). Furthermore, the objective of these measures is not to generate a background of structural equality, but to help those who fall below the minimum that has been stipulated to lead a decent life. The *ex post* character of redistribution fails to acknowledge the principle of reciprocity to regulate inequalities.

Rawls opposes welfare-state capitalism and defends a model that does more than simply carry out a periodic redistribution of wealth at the end of each period. He pursues a broad model of predistribution at the beginning of each period, both of the means of production and human capital, with social, political, and economic measures like the ones we mentioned above. The goal is to avoid inequalities before they grow in excess, thus ensuring that the just background remains.

Ultimately, redistributive and predistributive public policies intersect and are difficult to separate (O'Neill, 2019). As Murphy and Nagel (2002, p. 99) rightly point out, it is an exercise in political myopia to analyze the justice of a tax framework without analyzing at the same time how property and wealth are generated. The just is not predicated from the motionless parts at any given time, but from the complete scheme of social cooperation in motion. The basic structure will be fair when the citizens can cooperate freely with other citizens on an equal footing (Rawls, 1999, pp. xiv–xv). This means that the basic structure needs to be running constantly to ensure that each new generation encounters the same equal opportunities and life chances (Weale, 2013, p. 42).

John Rawls had good reasons to claim that every known form of capitalism is incapable of satisfying the requirements of justice, even when capitalism presents a human face by setting the goal that no one should fall, whether by accident, illness, loss of employment or misfortune, below a certain quality threshold of life.

Capitalist welfare states undermine the fair value of equal political liberties, fair equality of opportunities, fair economic reciprocity, and erode the most basic primary good: the social bases of self-respect (Freeman, 2020).

Critics argue that any alternative to welfare-state capitalism would need continual regulations and adjustments to prevent the concentration of capital (Vallier, 2015) and it would be less practical and less effective from an

economic point of view, as it would lack economic incentives to increase wealth; in consequence, critics state that the welfare state could address economic issues better and would create more economic opportunities for all.

To face this objection, it is necessary to remember justice as fairness is a theory of justice, not an economic theory. Rawls is aware of the importance of the role of the economic system within a society; he recognizes its importance and its profound effects. However, the choice of the economic scheme cannot be based solely on economic arguments such as profit maximization. Rawls rightly concentrates his efforts on the choice of the social system as a whole (Rawls, 1999, p. 242). The economic arguments need to be considered, but they have to be accommodated to political, social, and moral considerations. In the four-stage sequence (1999, pp. 171–176), Rawls argues that analyzing the requirements of the principles of justice is prior to deciding how production is organized, what is produced, how it is distributed or exchanged, what consideration should be given to ownership or what social role markets should play. The design of an economic system would have to be carried out in the constitutional convention stage, with the partial lifting of the limitations of the veil of ignorance and the knowledge of general facts about society. Freeman (2013) is right when he says that Rawls integrates the narrow understanding of the economic within a more complex framework that includes the organization of productive relations between democratic citizens. Therefore, the main indicator of a just society is not the efficiency in its economic design or the greater or lesser technical competence of those who occupy the different positions, but the justice of its institutions (Rawls, 2001, p. 136). The principle of efficiency plays a subordinate role in justice as fairness (Rawls, 1999, p. 272) and Rawls also rejects the idea that fairness requires to distribute income, wealth, and goods according to some concept of moral merit or virtue since a meritocratic society would not be adopted in the original position (1999, p. 91).

## **5. Conclusion**

Capitalism, both in its libertarian version and in welfare states, is not viable in terms of justice. Historically, capitalist states have tolerated inequalities incompatible with political equality and have not taken the necessary steps to ensure the fair value of political liberties (Rawls, 1999, p. 199).

The eminently political task of redistributing income and wealth cannot be delegated, as capitalist states do, to the markets or to the price system, because in this way the main beneficiaries end up being the owners of the means of production. Capitalist social welfare policies are insufficient to satisfy the principles of justice. To do so, it would be necessary to reorganize the economic and productive system. The background institutions need to work continually “to disperse the ownership of wealth and capital, and thus to prevent a small part of society from controlling the economy, and indirectly, political life as well” (Rawls, 2001, p. 139). Rawls is aware that if these steps are not taken,

political power accumulates and those “with greater responsibility and wealth can control the course of legislation to their advantage” (Rawls, 2005, p. 325). Unless actively avoided, the affluent will find ways to exercise a larger political influence over policy and legislation to maintain their privileges (Rawls, 1999, p. 198).

Capitalism does not allow the development of the democratic social state because of its tendency to reduce the space of politics in favor of the market. The imperatives of the neoliberal capitalist order tend to obstruct the achievement of democratic equality under parameters of reciprocity

Capitalist welfare states do not implement sufficient measures to prevent the domination of the most over the least advantaged. The social measures put into practice, even in the most advanced social states, are more aimed at tackling the problems that are generated under capitalism than at finding far-reaching solutions. Social protection is understood as investment in human capital, not as a means to let individuals lead better lives and social rights are defined by reference to the functional needs of markets, not the personal concerns of people, who are basically conceived in economic terms.

The difference principle, absent in capitalist states, is not a principle of benevolence or rescue meant to alleviate the worst-off, it is conceived to ensure that the welfare of the least advantaged receives as much consideration as that of any other group. Maintaining the worst off through subsidies is not the same as integrating them as equal members in a cooperation scheme accepted by all. The latter is precisely what the ideal of democratic equality demands.

In conclusion, we have tried to show that Rawls has been unfairly accused of presenting a theory behind whose apparent theoretical abstraction lies a conservative justification of the status quo: a constitutional democracy with a bill of rights, separation of powers, judicial review, not unlike the United States. It is true that Rawls considered that these premises, part of the noblest liberal legacy, are inalienable to achieve a well-ordered society. However, the fair value of political liberties, the fair equality of opportunities and the difference principle are more demanding and cannot be considered compatible with the economic system operative in the United States or in capitalist welfare states.

As we have seen, the theory that Rawls defends is far from having any depoliticizing effects. On the contrary, its concepts and principles allow us to broaden the political imagination necessary both to criticize the highly oligopolistic character of capitalist economies under market fundamentalism. The focus of justice as fairness is the attention that the worst off deserve. That is certainly a useful starting point which allows us to defend the need to put economic inequality back at the center of democratic debates in contemporary welfare states. It also helps us highlight how the concept of the democratic welfare state has been deprived of its emancipatory contents and

reduced to the free enrichment of the wealthiest, thereby condemning the many to a position of subalternity and precariousness that in no way can be reconciled with the egalitarian demands of justice as fairness.

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