

## Contemporary societies “under the veil” of *A Theory of Justice*

### Sociedades contemporâneas “sob o véu” de Uma Teoria da Justiça

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#### **ABSTRACT**

The present work evaluated, from the perspective of John Rawls' *A Theory of Justice*, the data released by the United Nations Development Program in the 2017 Human Development Report. From this information, it was demonstrated that the classification proposed by the Human Development Index adjusted to Inequality, conveyed in this document, presents dissonance in relation to the Rawlsian perspective. Therefore, through the analysis of multiple criteria such as religious freedom, gender equality and ethnic-racial isonomy, a reflection was established regarding the need to adjust the quality of life — up until now established as a parameter for 'ranking' countries — for an approach to social justice.

**Keywords:** justice theory, social justice, equity.

#### **RESUMO**

O presente trabalho avaliou, da perspectiva da Teoria da Justiça de John Rawls, os dados divulgados pelo Programa das Nações Unidas para o Desenvolvimento no Relatório de Desenvolvimento Humano de 2017. A partir desta informação, foi demonstrado que a classificação proposta pelo Índice de Desenvolvimento Humano ajustado à desigualdade, transmitida neste documento, apresenta dissonância em relação à perspectiva de Rawlsian. Assim, através da análise de múltiplos critérios, tais como liberdade religiosa, igualdade de gênero e isonomia étnico-racial, foi estabelecida uma reflexão sobre a necessidade de ajustar a qualidade de vida — até agora estabelecida como parâmetro de “classificação” dos países — para uma abordagem à justiça social.

**Palavras-chave:** teoria da justiça, justiça social, equidade.

## 1 INTRODUCTION TO A THEORY OF JUSTICE

Developed by the philosopher John Rawls, in 1971, the work *A Theory of Justice* was of great importance in the second half of the 20<sup>th</sup> century, as it established a reflection on the principles that would constitute a just society. At that time, the prevailing conception of social justice was based on Moral Utilitarianism, which advocated, in its classic view, according to the view of Rawls himself, that a society is “*rightly ordered, and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all the individuals belonging to it*” (Rawls, 1999, p. 20).<sup>1</sup>

Through his conception of justice as equity and, through the principles of equality and difference, whose definitions will be addressed throughout this article, the philosopher conjectured about the possibility that a society could achieve an equal distribution of rights and obligations without the need to annihilate the rights of minorities, this being his main critique of the previous model. It turns out that, despite the concern to establish a complete and coherent theory of justice, it is possible to note that the author turned to a conceptual and principiological analysis about social justice, thus distancing himself from studies of an empirical nature aimed at identification, based on the principles previously established of the most just societies.

In this sense, the object of the present work will be to investigate, from John Rawls' perspective of justice as equity, contemporary societies, especially those with a better quality of life, in order to assess whether they are in line with the notion of justice established by Rawls. For this investigation, a dialogue will be made with the work devised by the Pakistani economist Mahbub ul Haq, with the collaboration of the philosopher and economist Amartya Sen. The authors, in the work titled *Development as Freedom* (1999), broke free with the traditional way of evaluating nations, which related development to the countries' degree of industrialization, quantity of assets or their technological advance.

Therefore, seeking “*to shift the focus of development economics from national income accounting to people-centered policies*” (Haq, 1995, p. 9), the researchers transformed the way of evaluating the social conditions of countries, having Amartya Sen even been awarded the Nobel Prize in Economics in 1998, due to this work. Such research

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<sup>1</sup> It is extracted from J. Bentham that the utilitarian principle establishes that the morally correct conduct is the one that provides the greatest happiness of all those whose interests are at stake. Cf. BENTHAM, J. *An Introduction to the Principles of Moral and Legislation*. Edinburgh: William Tait, 1843.

resulted in the creation of an instrument, known as the Human Development Index (HDI), which, by weighing indicators such as income, education and health, seeks to calculate the level of a nation's quality of life (Haq, 1995; Siqueira-Batista & Schramm, 2005). Despite the incontrovertible importance of the HDI, especially in the breaking of paradigms related to the analysis of nations, it is questioned whether such ranking, despite its focus on people's quality of life, can also equally express itself within societies with a higher degree of justice from Rawls' perspective.

Consequently, the present work will also seek to answer this question, in order to assess whether the societies best classified in the HDI would be the most just, that is, it is analyzed whether the quality of life expressed in the referred index is enjoyed equally by all citizens of the nations assessed. The investigation will be subdivided into topics, the first being characterized by a reflection and historical contextualization regarding the main theorists of justice until the work proposed by Immanuel Kant; later, an approach will be made about John Rawls' Theory of Justice as equity; and, finally, from the concepts set by the philosophers previously analyzed, a problematization will be proposed regarding the consonance between the HDI and the references of Rawlsian theory.

As a source of data, the research will use the information contained in the Human Development Report made available by the United Nations Development Program (UNDP), in 2017, with regard to the analysis of nations in the year 2016 (UNDP, 2016). This program, currently present in 170 countries and territories (UNDP, 2018), belongs to the United Nations (UN) and its objective "*is to support countries to eradicate poverty and significantly reduce inequalities and social exclusion*" (UNDP, 2018). Among the activities of this body, the periodic construction of documents is included, in particular the Human Development Report, which, in turn, consists of the compilation of data and studies provided by a group of the entity's evaluators. The choice of this manuscript as the foundation for this investigation stems from the fact that it contains many tools, such as social inequality, gender, income distribution, access to education, health, among others, which will assist in the identification of which society would come closest to the conception of justice established by John Rawls.

## **2 FROM THE JUSTICE OF THE ANCIENTS TO KANTIAN THEORY**

A historical philosophical concern that reverberates in several fields of knowledge, the definition of the word justice has been the subject of successive discussions and transformations over time. In fact, the theme can be recovered from the

oldest sentence of Western philosophy (Heidegger, 2002, p. 371) that reached present day, the subsistent fragment of Anaximander of Mileto (6th century BC), in which the Greek term “Diké” — in the meanings of justice, compensation, retribution (Peters, 1974, p. 53) — was used to designate penance or a suitable means to return to the “*status quo ante bellum*”. See the excerpt:

*“... some other apeiron nature, from which come into being all the heavens and the worlds in them. And the source of coming-to-be for existing things is that into which destruction, too, happens, 'according to necessity; for they pay penalty and retribution to each other for their injustice according to the assessment of Time' (Kirk; Raven; 1957, p. 117)*

Furthermore, G. S. Kirk and J. E. Raven (1957, p. 119) explain:

*“Anaximander is the first in whom the concept of opposed natural substances (which recurs in Heraclitus, Parmenides, Empedocles, Anaxagoras, and in the Pythagoreans certainly as early as Alcmaeon) clearly appears. Doubtless he was influenced by observation of the main seasonal changes, in which heat and drought in summer seem to be pitted against cold and rain in winter. The constant interchange between opposed substances is explained by Anaximander in a legalistic metaphor derived from human society: the prevalence of one substance at the expense of its contrary is 'injustice', and a reaction takes place through the infliction of punishment by the restoration of equality of more than equality, since the wrong-doer is deprived of part of his original substance, too”.*

This excerpt points to a conception of justice with a focus on balance and atonement, since the philosopher had established a kind of retribution in relation to the injustices committed. The application of punishment as a means of compensating damage to others can also be observed in different cultures, among them, in the Babylonian civilization. In fact, about ten centuries before the Greek philosopher, in the 17<sup>th</sup> century BC, the Code of Hammurabi, in its articles 196 to 214, for the first time, positivized “the application of an unknown principle in previous legislation: the “*ius talionis*”, the celebrated 'eye for an eye, tooth for a tooth’” (translated by the authors) (Bouzon, 2003, p. 28). Based on this legal precept, it was possible to apply physical sanctions to an aggressor, as long as the punishment caused damage of the same nature and proportion to the injury the aggressor had caused. In this sense, as an example, article 197 prelects: “*If you broke a bone of an awilum (free man), he will break your bone*” (translated by the authors) (Bouzon, 2003, p. 182).

Considerations on the theme can be identified in fragments of several pre-Socratic philosophers, such as Heraclitus, Empedocles, Democritus, among others, who allocated

justice as a universal harmony that governs nature, man and the city (Siqueira-Batista & Schramm, 2005). Subsequently, different theorists analyzed, under different perspectives, the nature of Justice, which motivated Maffettone and Veca (2005), with a strictly didactic purpose, to propose subdividing the main authors into four groups, namely: (i) “the justice of the ancients”, which includes Plato and Aristotle; (ii) “justice of the moderns”, with Thomas Hobbes, John Locke, David Hume, Jean Jacques Rousseau and Immanuel Kant; (iii) “justice and social issues” with works by Jeremy Bentham, John Stuart Mill and Karl Marx and; finally, (iv) “the justice of the contemporaries”, using the perspectives of Henry Sidgwick, Erminio Juvalta, Herbert Hart, Friedrich Hayek and John Rawls.

Regarding the ancient philosophers, it is important to highlight that Plato talks about the theme in his work “The Republic”. The theme is approached, among other passages, through Socrates’ dialogue with several interlocutors, especially Polemarch, Thrasymachus and Glaucon, who, through the refutation of the word’s definitions, by each of these characters, the philosopher takes advantage of the negative findings in order to demonstrate what justice is not (Plato, 1965). Given the difficulty of assessing justice from an individual perspective, Socrates analyzes the word collectively, so that, when conjecturing about the elements of a perfect city, he formulates a hypothesis of what would be a just one.

For the philosopher, such a community would be endowed with three virtues, namely: wisdom, courage and temperance. These values would manifest themselves, respectively, in the governors, guardians and artisans, who, according to him, consist of the three social classes that make up this society. Socrates stresses that each one must occupy himself in the city with a single task, the one for which he is best endowed by nature (Plato, 433b). Therefore, in order to have harmony in this perfect society, the members of each class — chosen according to their abilities — could not exercise the function of others. Such coherence between the three classes and the respective virtues would be embodied in a just society, since, for the philosopher: “*The city’s justice consists in each class performing its proper function*” (Platão, 441b).

Aristotle, in turn, in Nicomachean Ethics, deepened his studies on justice, so that his observations exercised “*a permanent influence on the theories of justice since then*” (Maffettone & Veca, 2005, p. 4). The philosopher, when lecturing on the theme, established the following assumption: justice would be a virtue, that is, “*the sort of habit or character that makes men act to do what is just, and which what is just, further makes them act justly and wish what is just*” (Aristotle, 1906, p. 136). It should be emphasized

that the fair act is one that is in line with the law and, if it is legitimate, will have the objective of common advantage, therefore, the act that “*tends to produce and preserve the happiness of community, and the several elements of that happiness*” is considered just (Aristotle, 1906, p.139).

From these premises it is possible to infer that justice, for Aristotle, would be a disposition of character that makes individuals act towards the common good. Such a concept, classified as universal justice, encompasses a set of virtues, among them, that which he called private justice. Such virtue is subdivided (i) into distributive justice that “*has to do with the distribution of honor, wealth, and the other things are divided among the members of the political body*” (Aristotle, 1906, p. 143) and (ii) corrective justice, that is, “*to give redress in private transactions*” (Aristotle, 1906, p. 143). It is extracted from the philosopher that these particular kinds of justice aim, respectively, to exercise an equitable distribution of material and immaterial goods — such as honors — that will be available to the members of a society, as well as to correct the distortions that may occur in that division.

Aristotle questions the methods of correcting injustices subsidized by norms such as the “Law of Talion”, which calls for reciprocal justice, since the application of sanctions to the aggressor identical to those he caused to others is not necessarily the most just. This is because, in certain cases, the cause of damage may, for example, be an authority in strict compliance with legal duty, so that, in this case, he should not suffer any punishment (Aristotle, 1906). This time, the distortions that have occurred in society must be analyzed on a case by case basis and, if their correction is determined, it should be applied in proportion to the damage eventually caused and not with a sanction identical to the aggression perpetrated, as proposed by Talion’s followers.

Finally, the theorist proposed a concept that influenced numerous later works, among them John Rawls' Theory of Justice, namely: idea of justice as equity. Indeed, Aristotle considers equity (*ἐπιείκεια*) to be a superior concept to that of justice formulated in a law, since it is embodied in “*correction of that which is just according to law*” (Aristotle, 1906, p. 175). It is possible that the application of the legislation, due to its universality and the impossibility of foreseeing all human situations, in certain cases, may be excessive or omitted, in a way to cause damage to the jurisdiction. Thus, in analogy to the Lesbos Ruler — a measuring instrument made of lead that has the peculiarity of adjusting to the irregularities/imperfections of objects —, the philosopher defines equity

as being justice in the specific case, being by nature “*an amendment of the law, in those points where it fails through the generality of its language*” (Aristotle, 1906, p. 176).

It should be emphasized that the notion of justice defended by Aristotle is different from that approached in Rawls work, since, while the Greek philosopher was guided by a moral related to concrete factors, such as habits, virtues and the practices of the community in which the individual is inserted (Aristotle, 1906), in Rawls's theory, with an approach that approximates the theory proposed by Immanuel Kant — as will be seen below — the author's conception is based on general and abstract principles, and proposes “*a procedural ethics founded on formal norms disconnected from a specific conception of good*” (translated by the authors) (Feldens, 2010, p. 7). However, Aristotle's merit stems from the fact that, despite the difference, the aforementioned concepts of distributive justice, equity, among others, served as the basis for the theory of justice proposed by Rawls. Furthermore, Feldens (2010, p. 11) points out that:

*“The most significant approach to Aristotelian thinking, nowadays, is precisely the conjunction of the subjective aspect of justice (moral virtue of citizens) with the objective aspect (principle of social order), demonstrated in the articulation between the principles and the community sense of justice, made through a reflective balance”.* (translated by the authors)

Regarding the justice of the moderns, the perspectives of the philosopher Thomas Hobbes stands out, who — through his work entitled *Leviathan or matter, form and power of an ecclesiastical and civil state*, written in April 1651 (Hobbes, 2003) — sought to explain the emergence of the State and the need for a sovereign to maintain social order. In summary, he stresses that, in a primitive social organization — which he called the natural state — men would be free to fully self-determine. However, the exercise of that freedom without the existence of any coercive means of control would jeopardize the physical security of all citizens. Such danger, according to the philosopher, “*of getting themselves out from that miserable condition of war which is necessarily consequent, as has been shown, to the natural passions of men when there is no visible power to keep them in awe, and tie them by fear of punishment to the performance of their covenants.*” (Hobbes, 2008, p. 129). In this sense, men, through a social pact, would choose to renounce their freedom “*in those things which concern the common peace and safety; and therein to submit their wills, every one to [...]*” the sovereign's will “[...] *and their judgments to his judgment*” (Hobbes, 2008, p. 132).

Regarding the theme of the present essay, Thomas Hobbes establishes the indispensability of the existence of a State for there to be Justice. He points out that Justice consists of “the constant will of giving to every man his own.” (Hobbes, 2003, p. 109), and for its effectiveness, the participation of a sovereign is necessary. He explains:

*“(...)Therefore before the names of just and unjust can have place, there must be some coercive power to compel men equally to the performance of their covenants, by the terror of some punishment greater than the benefit they expect by the breach of their covenant”* (Hobbes, 2003, p. 109).

Based on the statement above, it is possible to observe that the philosopher, despite addressing the theme, is restricted to analyzing the just only as a means of subsidizing his theory of the social contract and justifying submission to the sovereign, not entering into the other filigree of the theme, since specific work with this bias would be necessary for this to take place.

John Locke, on the other hand, differed from Thomas Hobbes' approach on several points. The philosopher, known as the “father of liberalism” (Várnagy, 2006, p. 46), spoke about the need for a social pact for the consolidation of a government. However, unlike Hobbes who established unlimited powers to the sovereign, Locke argued that the rulers role was restricted to safeguarding “*lives, liberties, and possessions*” of individuals (Locke, 2004, p. 104). Furthermore, the author questioned the notion of the natural state defended by Thomas Hobbes, in which individuals would be in constant reciprocal conflicts. According do Locke, this model of a primitive society established by his predecessor would, in reality, would be a state of war, which is embodied in a “*state of enmity, malice, violence and mutual destruction*” (Locke, 2004, p. 12). The thinker believed that the natural state would be characterized by “*peace, good will, mutual assistance and preservation*” (Locke, 2004, p. 12). However, eventually, there would be conflict between individuals, so that, although it is possible to resolve disputes in this social model, the absence of hierarchy among citizens or any authority to turn to, would make this process of social pacification difficult. Therefore, the creation of a government — without absolute powers — with the prerogative of resolving conflicts and guaranteeing the lives, freedom and properties of individuals, for the author, would be one of the main reasons why “men abandoned the natural state and came together as a society” (translated by the authors) (Locke, 1994, p. 40).

In relation to justice, it is inferred to from his works, that it consists of the main law of nature and the guide of all society (Locke, 1954, p. 71). Such laws represent basic



corollaries of justice, which, in the author's words, “*teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions*” (Locke, 2004, p. 4). Furthermore, in addition to setting parameters for government officials and citizens to act fairly in society, the laws of nature are so basic that disregarding their guidelines could possibly lead to the removal of a government. That said, from the works of John Locke it would be possible to infer that a just society is characterized by the coexistence and the guaranteeing of life, equality, health and the property of its citizens.

The works of Hobbes and Locke, as will be seen throughout the present investigation, were fundamental for the consolidation of John Rawls' theory of justice as equity, mainly with regard to the conception of the social pact and the underlying liberal conceptions.

Unlike the theorists previously mentioned who conjectured about a supposed state of nature that culminated in the creation of a social pact, qualified as rights and duties to the requirements, the Scottish philosopher David Hume disagreed with these premises when he stated that “*this state of nature, therefore, is to be regarded as mere fiction, not unlike that of the golden age, which poets have invented*” (Hume, 1960, p. 493). For the author, such assumptions brought by his predecessors, which he calls philosophical fictions, must give rise to an analysis based on experience and observation. It also stresses that, through an empirical and historical investigation, it would be possible to deduce how society was formed, as well as the notions of justice that underlie them, because despite the different periods in which individuals are inserted — whether in the age of another, middle age, or modern age — there would be a certain degree of “*uniformity in human life*” (Hume, 1960, p. 426). In this sense, in his work, he criticized the perspectives of Plato and Hobbes:

*“I am apt to think a traveller wou'd meet with as little credit, who shou'd inform us of people exactly of the same character with those in Plato's ipeildlic on the one hand, or those in Hobbes's Leviathan on the other”* (Hume, 1960, p. 439).

In his work, with regard to the conceptions of justice, Hume tries to delimit them in a way concomitant with what he saw as the process of society's formation. In this sense, in the topic “*Of the Origin of Justice and Property*”, the philosopher, when making a brief comparison between *Homo sapiens* and non-human animals, points out that the

former are quite fragile and have several needs, such as clothing, food, shelter to protect themselves from the weather, among others. Thus, he concludes that, through society, man would be able to conquer his weaknesses and overcome other existing creatures. He points out that, despite this social grouping guaranteeing a series of advantages for human beings, such a coalition would have the challenge of stabilizing the possession of goods extracted from nature, which, in view of their scarcity, would be disputed by its inhabitants. Thus, in order to resolve it, according to the philosopher, a convention was established that establishes a guideline for mutual respect for the goods of others. He explains:

*“(...) when they have observ’d, that the principal disturbance in society arises from those goods, which we call external, and from their looseness and easy transition from one person to another; they must seek for a remedy, by putting these goods, as far as possible, on the same footing with the fix’d and constant advantages of the mind and body. This can be done after no other manner, than by a convention enter’d into by all the members of the society to bestow stability on the possession of those external goods, and leave every one in the peaceable enjoyment of what he may acquire by his fortune and industry” (Hume, 1960, p. 489).*

Such an adjustment of wills was fundamental for the emergence of the concepts of justice and property. In this sense:

*“After this convention, concerning abstinence from the possessions of others, is enter’d into, and every one has acquir’d a stability in his possessions, there immediately arise the ideas of justice and injustice; as also those of property, right and obligation” (Hume, 1960, p. 490).*

The aforementioned premises establish one of the main differences between the author's perspectives and that of his predecessors, since, unlike previous conceptions that consider justice as something intrinsic to human nature, David Hume treats Justice as an “*artificial virtue*” (Hume, 1960, p. 518). That is, it is characterized by an invented concept “*not deriv’d from nature, but arises artificially, tho’ necessarily from education, and human conventions*” (Hume, 1960, p. 483). Indeed, justice and property, for Hume, would be interwoven concepts, since, “*if men were supplied with every thing in the same abundance, or if every me had the same affection and tender regard for every one as for himself; justice and Injustice would be equally unknown among mankind*” (Hume, 1960, p. 495). Furthermore, he asserts that “*it's only from the selfishness and confined generosity of men, along whith the scanty provision nature has made for his wants, that justice devires its origin*” (Hume, 1960, p. 495).

Based on the above, it is extracted from his work that justice would be an artificial virtue that aims to guarantee the stability of property, through an agreement of non-mutual intervention between the individuals of a society.

Jean Jacques Rousseau, in his essay “*Discourse on the origin of inequality*”, related — equally — the conception of justice to the emergence of the notion of property. For the author, the first rules about justice arose with the need to share the fruits received by individuals in activities such as farming (Rousseau, 2018). In this sense, the author, in the first part of the speech, sought to analyze the transition from the natural state to civil society. The peculiarity of this chapter concerns the proposition, different from what Thomas Hobbes taught, that man would be naturally good, who, based on the principles of self-preservation and piety, lived a free and solitary life, whose objectives basically consisted of searching for food and sexual partners. In this sense, he criticizes:

*“Above all, let us not conclude, with Hobbes, that because man has no idea of goodness, he must be naturally wicked; that he is vicious because he does not know virtue; that he always refuses to do his fellow-creatures services which he does not think they have a right to demand; or that by virtue of the right he truly claims to everything he needs, he foolishly imagines himself the sole proprietor of the whole universe. Hobbes had seen clearly the defects of all the modern definitions of natural right: but the consequences which he deduces from his own show that he understands it in an equally false sense. In reasoning on the principles he lays down, he ought to have said that the state of nature, being that in which the care for our own preservation is the least prejudicial to that of others, was consequently the best calculated to promote peace, and the most suitable for mankind”* (Rousseau, 2018, p. 19).

For Rousseau, the transition from the natural state to the social state — and the consequent emergence of inequality — had occurred gradually, so that the human being, with the learning of farming techniques, fishing and hunting, instead of migrating to other places in search of food, started to establish itself in certain regions and, little by little, with the entry of other individuals, the first communities began. It is noteworthy that in this primitive agglomeration of people, subsistence resulted from the division of labor of its members and the respective fruits. For the author, the notion of ownership emerges from this sharing of what was harvested, as well as from the division of land, aiming at the planting and agglomeration of items for consumption.

He points out that the inequality of natural or acquired talents existing among men made some individuals strive for more fruits in relation to the others, so that some acquired large quantities of goods, while others did not even have the minimum necessary subsistence. In this sense:

*“In this state of affairs, equality might have been sustained, had the talents of individuals been equal, and had, for example, the use of iron and the consumption of commodities always exactly balanced each other; but, as there was nothing to preserve this balance, it was soon disturbed; the strongest did most work; the most skillful turned his labour to best account; the most ingenious devised methods of diminishing his labour: the husbandman wanted more iron, or the smith more corn, and, while both labored equally, the one gained a great deal by his work, while the other could hardly support himself. Thus natural inequality unfolds itself insensibly with that of combination, and the difference between men, developed by their different circumstances, becomes more sensible and permanent in its effects, and begins to have an influence, in the same proportion, over the lot of individuals” (Rousseau, 2018, p. 28).*

This time, for the author, as consularists of the notion of property, the notion of wealth, greed, vanity, inequality and injustice emerges, this being the landmark that explains the transition from the natural state to the constitution of a civil society. It is stressed that:

*“The first man who, having enclosed a piece of ground, bethought himself of saying This is mine, and found people simple enough to believe him, was the real founder of civil society. From how many crimes, wars and murders, from how many horrors and misfortunes might not any one have saved mankind, by pulling up the stakes, or filling up the ditch, and crying to his fellows, ‘Beware of listening to this impostor; you are undone if you once forget that the fruits of the earth belong to us all, and the earth itself to nobody.’ But there is great probability that things had then already come to such a pitch, that they could no longer continue as they were; for the idea of property depends on many prior ideas, which could only be acquired successively, and cannot have been formed all at once in the human mind. Mankind must have made very considerable progress, and acquired considerable knowledge and industry which they must also have transmitted and increased from age to age, before they arrived at this last point of the state of nature” (Rousseau, 2018, p. 23).*

Furthermore, it is extracted from the work *“The Social Contract Or Principles Of Political Right”* that his notion of justice derives from the rise of civil society, in which instinct, physical impulse, appetite and other behaviors related to the natural state, give way to justice, morality, duty and reason (Rousseau, 2013). In fact, the author — in Chapter VI, Book II — when talking about the concept of Law, approaches his concept to that of justice, because, he stresses that his conception comes from God; however, given the impossibility of citizens to communicate with this deity, legislation would have the role of being the source of justice. He stresses that it must be universal and reciprocal. In another passage of his work, the philosopher also highlights that his notion stems from the idea of equal rights.

It can be seen, therefore, that the notion of justice established by Rosseau is associated with that of civil society and the distribution of goods and duties that is related

to it. In the natural state there would be no need to consider its existence, since, as explained, in this primitive society there was no private property and, being the man free to have everything he could achieve (Rousseau, 2013), there would be no discussions about the equitable sharing of these acquisitions. In this sense, the comparison made by the philosopher follows:

*“What man loses by the social contract is his natural liberty and an unlimited right to everything he tries to get and succeeds in getting; what he gains is civil liberty and the proprietorship of all he possesses. If we are to avoid mistake in weighing one against the other, we must clearly distinguish natural liberty, which is bounded only by the strength of the individual, from civil liberty, which is limited by the general will; and possession, which is merely the effect of force or the right of the first occupier, from property, which can be founded only on a positive title”* (Rousseau, 2013, p. 15).

A different approach comes from the work of Immanuel Kant, who bases his perspectives on justice in the corollaries of freedom and reason. In this sense, the author defines just action as one that *“can coexist with everyone’s freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone’s freedom in accordance with a universal law”* (Kant, 2013, p. 230). Through this premise, the philosopher stresses that injustice arises from the obstinization of an action or condition in the individual sphere of another.

From the concept of fair action, established by Immanuel Kant, it is possible to extract innumerable findings, since there is a current and effective universal law that manages to make compatible and guarantee the maximum freedom of people, in theory, through such a rule it would be possible to subsidize the existence of a just society. This conception is coherent; however, without a precise definition about what the author calls “universal law”, there is no way to analyze what constitutes justice, highlighting that such a concept can be found in the work “Foundations of Metaphysics of Customs”. However, before going into the merits of the question, it is necessary to explain some aspects related to this work.

Published in 1785, the study aimed for the *“investigation and establishment of the supreme principle of morality”* (Kant, 2004, p. 19), in other words, it aimed to investigate the source of moral principles and customs. For Kant, this analysis was of great importance, since it made it possible to propose objective parameters in order to assess the correction of moral rules, as well as the behaviors that are based on them. He argues:

*“A metaphysic of morals is therefore indispensably necessary, not merely for speculative reasons, in order to investigate the sources of the practical principles which are to be found a priori in our reason, but also because morals themselves are liable to all sorts of corruption, as long as we are without that clue and supreme canon by which to estimate them correctly. For in order that an action should be morally good, it is not enough that it conform to the moral law, but it must also be done for the sake of the law, otherwise that conformity is only very contingent and uncertain; since a principle which is not moral, although it may now and then produce actions conformable to the law, will also often produce actions which contradict it” (Kant, 2004, p. 19).*

Therefore, from this premise, aiming to answer which elements would comprise these moral principles *a priori*, he concluded that they should be universal through a process of reflection that could be adequately exercised by all rational individuals (Kant, 2004). With regard to rationality, Kant stresses that an action, in order to be considered good, the judgment that is related to it must be performed independently of the agent's inclinations, as well as the consequences of the conduct. Such would be the actions for duty.<sup>2</sup>

Based on this premise, the author established the concepts of imperatives, which consist of commandments that, based on rational premises, establish guidelines about the way in which the individual must determine his action. Such imperatives can be hypothetical —when the agent proceeds in a certain way aiming at some ulterior objective — or categorical, in relation to which the individual acts in a certain way that *“commands a certain conduct immediately, without having as its condition any other purpose to be attained by it”* (Kant, 2004, p. 50). The latter, according do Kant *“may be called that of morality”* (Kant, 2004, p. 52) – for being independent of interests or any inclinations of the agent — it should be considered *a priori* to decision making and also as a means for analyzing the correction of the adopted behaviors.

The philosopher highlights that the categorical imperative is expressed through formulas that contain propositions about the way the agent should proceed, which, among them, is the universal law's formula. This formula states that a conduct should only be

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<sup>2</sup> The notion of duty is the center of Kantian ethics, The philosopher explains: *“I omit here all actions which are already recognized as inconsistent with duty, although they may be useful for this or that purpose, for with these the question whether they are done from duty cannot arise at all, since they even conflict with it. I also set aside those actions which really conform to duty, but to which men have no direct inclination, performing them because they are impelled thereto by some other inclination. For in this case we can readily distinguish whether the action which agrees with duty is done from duty, or from a selfish view. It is much harder to make this distinction when the action accords with duty and the subject has besides a direct inclination to it.”* KANT, Immanuel. *“Fundamental Principles Of The Metaphysic Of Morals.”* Translated by Thomas Kingsmill Abbott. *Project Gutenberg eBook*, 2004.

practiced if it has the aptitude to become universal. In this sense, he states: “*Act only on that maxim whereby thou canst at the same time will that it should become a universal law*” (Kant, 2004, p. 59). In fact, everyone “*(...) can recognize, at every moment, where is the duty, a condition of a good will, asking himself: can I want the maxim referring to such or such an action to become universal law?*” (translated by the authors) (Pascal, 2001, p. 116).

Thus, by way of example, it can be concluded that practices such as breaking a promise — based on the assumption established by the aforementioned maxim — would not be morally appropriate, since individuals would reject the hypothesis that their peers would not comply with the agreements or commitments once signed, as well as a society would not be sustained if the breach of promises were erected to the universal maxim, so that the pacts would not work, the situation would move towards anomie and society would collapse; therefore, it could never be conceived as a universal maxim.

From this approach to the universal law formula, it becomes possible to analyze the concept of just action established by Kant. As already mentioned, such behavior is embodied in that which, based on a universal law, is capable of coexisting with the freedom of all. Therefore, through this formula, it is concluded that the conduct that has the capacity to become universal is fair and, at the same time, able to harmonize with the freedom of other individuals. Thus it is possible to extract from Kant's work, that his notion of justice permeates the binomial universality-freedom.

Immanuel Kant's work had a great influence on John Rawls' theory of justice, especially with regard to his conjectures about the “*way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation*” (Rawls, 1999, p. 6). This concept, referred to as the basic structure of society, will be explored in the following topic.

### **3 A THEORY OF JUSTICE AND CONTEMPORARY SOCIETIES**

Professor of the Harvard Philosophy permanent body, from 1962 until his retirement in 1991, John Rawls (1921-2002) was an American philosopher of great importance in the 20th century (Lovett, 2013). The scholar, through the work “*A Theory of Justice*”, talked about social justice, which, based on certain principles, “*provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation*” (Rawls, 1999, p. 4). The book had emerged in a period of tension in the United States, standing between

traditional liberalism, with a focus on strengthening individual rights, and the doctrines on the left, with the prospect of establishing a welfare state. In this sense, the author aimed to fill this gap and make the desires of these two ideological currents compatible from a coherent philosophical theory (Lovett, 2013).

Until the publication of his work, the predominant conception of social justice was based on Moral Utilitarianism, which, as already seen in the topic referring to the introduction of this work, in its classic version, establishes that a just society consists of the arrangement that provides the greatest balance/average net satisfaction of its inhabitants (Rawls, 1999). From this delimitation, the philosopher makes several criticisms of this perspective, highlighting that its maintenance generates numerous distortions such as the possibility of authorizing the sacrifice of the rights of minority groups when this results in a greater net balance of satisfaction for the majority of the population. Furthermore, it highlights the incompatibility of this principle with the idea of reciprocity implicit in a well-ordered society. In this sense:

*“Since each desires to protect his interests, his capacity to advance his conception of the good, no one has a reason to acquiesce in an enduring loss for himself in order to bring about a greater net balance of satisfaction. In the absence of Strong and lasting benevolent impulses, a rational man would not accept a basic structure merely because it maximized the algebraic sum of advantages irrespective of its permanent effects on his own basic rights and interests. Thus it seems that the principle of utility is incompatible with the conception of social cooperation among equals for mutual advantage” (Rawls, 1999, p. 13).*

In this way, aiming to overcome any injustices perpetrated by the model of societies based on the principle of utility, the theory of justice as equity defines society as a system of cooperation in which its members would sign a kind of social contract. Such an approach is close to the conceptions established by the aforementioned contractual theorists, such as Tomas Hobbes and John Locke. However, Rawls adds his point of view to the theories of these authors by pointing out that the fact that there is a contract does not mean that it is necessarily fair, since several factors can influence its terms, such as the financial or technical insufficiency of the contract, better negotiation skills, among others.

In this tuning fork, he defends that, for this model of social contract to be fair, the covenants must start from a situation of equality with the others, called the original position, which, according to the author, is embodied in *“the appropriate initial status quo, and thus the fundamental agreements reached in it are fair”* (Rawls, 1999, p. 11).



To achieve such a state, Rawls uses a mental experiment called “veil of ignorance”, which consists in the suppression of all the particularities of the contractors, making them unaware of their social status, economic status, natural capacities, as well as any other characteristics that could put them at an advantage or disadvantage compared to their peers (Rawls, 1999).

Therefore, unaware of the role they would play in society, the pacts would opt for the formulation of a more just system, since the risk of occupying a disadvantaged position in society would dissuade them from creating an unequal system. Frank Lovett (2013, p. 19) summarizes the central proposal of Rawls' work with the following statement: “*What sort of society would you want to live in, if you did not know?*” Obviously, citizens would not choose, for example, to create a slave society, if they did not know whether they would occupy the role of slave owner or slave, as well as not defend a sexist society, if they did not know the gender they would be born. Thus, based on these parameters, it is possible to develop models of just societies as well as to objectively measure unjust ones.

The author’s proposal with the use of the “original position” and the “veil of ignorance” was to enable the judge to make less of his prejudices in his decisions and to be subsidized in strictly rational parameters. Based on these tools, John Rawls, inspired by Immanuel Kant's perspective, with regard to his formula of universal law and humanity, developed his theory called “justice as equity”.

As already mentioned, Kant proposed, respectively, the duty to act in such a way that the individual recognized that his conduct was convoluted in a universal law and that, in moral judgments, the human being was always treated as an end in itself, never as a mere means of obtaining further profit. In this sense, from these premises the author came to the conclusion that two kantian principles, “*analogous to categorical imperatives*” (Rawls, 1999, p. 222), would be widely accepted if rational individuals, in an original position, were subjected to the “veil of ignorance”, namely: the principle of equality and that of difference.

The principle of equality states that “*Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all*” (Rawls, 1999, p. 266). The author argues that basic freedoms consist of a set of rights, such as political freedom, expression, locomotion, conscience, property, among others (Rawls, 1999). For the philosopher, this principle establishes the need for public policies, *prima facie*, to seek the equal distribution of freedoms, opportunities,

incomes, goods, among others. He stressed that an unequal distribution of such “basic freedoms” would only be possible when this imbalance is beneficial to all members of society.

Such warning is embodied in the principle of difference, which advocates that “*social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all*” (Rawls, 1999, p. 53). In other words, this principle stresses that in a just society there may be social and economic inequalities, as long as these translate into benefits for all other members. Furthermore, it must be demonstrated that, in an unequal society, the balance of basic freedoms for all citizens is greater than it would be if it were completely egalitarian.

He warns that in the use of these two principles it is essential that there is a priority relationship between the principle of equality in relation to that of difference. In this sense, the judge should initially distribute the rights and advantages of all citizens equally and, subsequently, apply the principle of difference if it allows for a greater balance of basic freedoms to all citizens.

According to what has already been explained, the theory of justice as equity was of great importance for proposing an alternative to moral utilitarianism, as well as for reconciling the concepts — hitherto considered as antagonistic — of individual rights and the welfare state (Lovett, 2013). In this sense, he asserted that “*Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others*” (Rawls, 1999, p. 3).

The problem is that, as already explained in the topic referring to the introduction, the philosopher, despite the merit of engendering the entire conceptual and principiological framework of his theory of justice, did not carry out a specific analysis of the societies in force at the time in order to assess whether their organizational structures came close to the conception of justice that he had created<sup>3</sup>. Such an approach will be discussed in the next topic.

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<sup>3</sup> However, this was not the philosopher's purpose, since, like Kant, the author did not seek an “empirical confirmation” of A theory of justice. In the words of Kant, in which Rawls bases his premise, it is extracted that “*In fact, it is absolutely impossible to make out by experience with complete certainty a single case in which the maxim of an action, however right in itself, rested simply on moral grounds and on the conception of duty*”. “[...] yet we cannot from this infer with certainty that it was not really some secret impulse of self-love, under the false appearance of duty, that was the actual determining cause of the will” (Kant, 2007, p.40); about this, Pascal adds: “*This refusal of any compromise between morality and experience constitutes*

#### 4 THE HUMAN DEVELOPMENT INDEX AND JUSTICE AS EQUITY

The section of the present essay that now begins represents an attempt at composing the thoughts of John Rawls and Amartya Sen. It is, therefore, a matter of analyzing, from the perspective of justice as equity — Rawls — whether the countries presented as the best in the world regarding quality of life — based on the HDI — are also the fairest. Indeed, for such an investigation, the information contained in the Human Development Report made available by the United Nations Development Program (UNDP), in 2017, with regard to the analysis of nations, in 2016 (UNDP, 2016) will be assessed.

The choice of the Development Report as a parameter of the present investigation stems from the fact that, in addition to having a significant amount of information about nations, which facilitates the comparison of this data with the principles of Rawlsian theory, the Senian inspired HDI, has been, in the last decades, an important index, being used worldwide to measure the quality of life in a total of 170 countries and territories (UNDP, 2018). From these considerations, we proceed to the analysis of the equality indexes conveyed in the aforementioned document.

The principle of equality, according to Rawls, establishes the guarantee that people have an “*equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all*” (Rawls, 1999, p. 266). The author stressed, as previously mentioned, that such a rule should prevail in relation to the principle of difference, so that a just society should be as egalitarian as possible, only accepting eventual social or economic inequalities when such disparity implies to increase basic freedoms of all other subjects. In this sense, with regard to the right to property and income, the Human Development Report compiles several indexes related to social inequality existing in countries, such as the GINI coefficient, the Palma index and the Quintile index, which, through pre-established formulas, show the inequality in the distribution of wealth among individuals (UNDP, 2016, p. 223).

The GINI index, established by the Italian Corrado Gini in the work “*Variabilità e Mutabilità*” (1912), is an indicator that aims to measure the relative distribution of a variable in relation to some pre-established element. Thus, using a mathematical tool

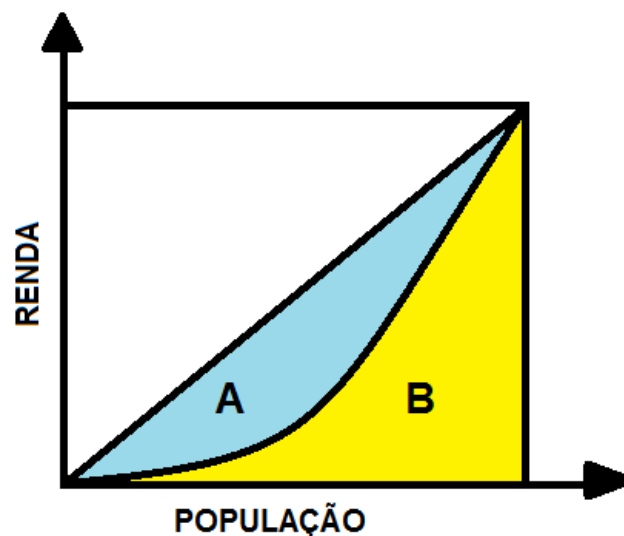
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*what is commonly called Kantian rigorism. Duty is not an empirical concept: it is an a priori order of reason. Morality is not defined by the use of the largest number: it is an ideal that our reason proposes to us a priori*”. (translated by the authors) (Pascal, 2001, p. 118-119);

called “Lorenz Curve”, whose illustration can be seen below (Figure 1), the author was successful in calculating the population's income distribution.

The graph shown in Figure 1 corresponds to a relation between population and income, so that its diagonal corresponds to an ideal situation, in which income would be equitably distributed to the entire population. The Lorenz Curve, in turn, represents the real situation of a given group, so that the further it moves away from the diagonal line, the greater the inequality in the distribution of wealth represented in the graph. The concentration of income, in turn, was established by Corrado Gini, based on the ratio between the areas delimited by the Lorenz curve, which are explained in the following formula:  $G = A / (A + B)$  (Gini, 1912). From these calculations, the GINI coefficient was established, whose values are between 0 and 100, with 0 representing absolute equality and 100 representing the concentration of all income to a single person (UNDP, 2016, p. 223).

Figure 1. Lorenz Curve.



Graphical representation created by the first author of this essay.

It should be stressed that, for example, Ukraine, Slovenia and Norway, according to an analysis of the data extracted from the Human Development Report between 2010 and 2015, occupied, respectively, the first, second and third positions, with GINI indexes of 24.1, 25.6 and 25.9. Brazil, on the other hand, was ranked as the tenth country with the worst income distribution in the world, with an index of 51.5.

The Palma index, in turn, was established by the Chilean economist José Gabriel Palma, who, about a century after the GINI coefficient was drawn up, established the ratio

between the richest 10% and the poorest 40% as the basis for calculation, with regard to income distribution (Palma, 2016). For the author, his method allows for a better measurement of inequalities in relation to his predecessor, because, as a rule, the middle class holds about fifty percent of the income of most societies, so that it is included as a basis for calculation to measure the distribution of income in the countries, it would imply the amortization of inequalities between the 10% richest and the 40% poorest (Palma, 2016). In this sense, he stresses that it is advantageous to replace the GINI coefficient with the Palma coefficient, since its indicator, in addition to being “*simple, intuitive and transparent*” (Palma, 2016, p. 15), “*measures inequality where there is inequality*” (translated by the authors) (Palma, 2016, p. 15).

Several authors have mathematically demonstrated the divergence between the GINI and Palma coefficients. As an example, the work of Cobham (2013) should be brought up, in which the following situation was delimited: a country in which the poorest 40.0% of population obtained an increase from 20.0% to 20.8% in the distribution of wealth and the richest 10.0% jumped from 26.8 to 28.0% at the expense of the decrease in the middle class from 53.4% to 51.1%, such values would imply a drop in the GINI coefficient from 33.33 to 33.27 (0.2%) — showing a better income distribution — and an increase in the Palma index from 1.33 to 1.35 (1.4%) — indicating a worsening with regard to inequality between the richest and poorest population in the country. That said, it is possible to see that while the GINI coefficient has the ability to show the income distribution of a certain group as a whole, the Palma coefficient, in turn, has the peculiarity of focusing on inequality between the richest and the poorest strata of the population. As a curiosity, based on the information extracted from the Human Development Report (UNDP, 2016), Norway, Australia, Switzerland and Brazil, occupy, respectively, the first, second, third and seventy-ninth positions, with indexes of 0.8, 0.9, 0.9 and 1.9.

It is also worth mentioning the Quintile index, which in turn, “represents the relationship between the average income of the richest 20% and the poorest 20%” (translated by the authors) (UNDP, 2016, p. 223). Despite the difference in relation to the calculation base of the Palma index, when analyzing the data provided by the aforementioned report, it was found that all ranked countries remained in the same positions established by the Palma index, with Norway, Australia and Switzerland remaining in the first positions, as well as the other countries that were analyzed.

It is observed that, based on these criteria, an attempt was made to identify the way in which income distribution is carried out in the world. However, an equitable distribution does not necessarily indicate that a society is prosperous. This is because, for example, Ethiopia, despite having a GINI coefficient of 33.2 — analogous to that of France and higher than that of Australia —, is a country of extreme poverty.

This time, although prosperity is not a sufficient condition for a society to be just, based on the principle of difference, it is possible to extract that the systemic misery and the lack of access to basic conditions of survival, imply social injustice. This is the case of Ethiopia, that in 2013 had a life expectancy of only 62 years, had drinking water supply in only 68.5% of its national territory, an infant mortality rate of 88 children for every thousand inhabitants and an illiteracy rate of 41, 7% (UNDP, 2013). As already explained, the principle of difference establishes the possibility that a country will show a worse distribution of wealth and be considered more just than, for example, Ethiopia, provided that a greater balance of basic freedoms belonging to all its citizens is demonstrated. In this sense, it is questioned that, in addition to an equitable distribution of wealth, what would be the other characteristics that, under the aegis of the “veil of ignorance”, should coexist for a society to be considered fair.

In this sense, the Human Development Report was very timely in making the HDI available. Such coefficient, idealized by the Pakistani economist Mahbub ul Haq, with the collaboration of the economist Amartya Sen (Haq, 1995), was intended to “*shift the focus of development economics from national income accounting to people-centered policies*” (Haq, 1995, p. 9). It so happens that, at the time, a country's development was measured by its degree of wealth and industrialization, so that the quality of life of its inhabitants was irrelevant. Therefore, breaking away from this perspective, Haq and Sen argued that “*freedoms are not only the primary ends of development, they are also among its principal means*” (Sen, 2000, p. 25), emphasizing that an economically developed country or one with a high per capita income will not necessarily provide a greater degree of freedom for its inhabitants, because there are countries that, despite being quite wealthy — such as Brazil and South Africa, according to the authors — maintain low levels of literacy and life expectancy for their citizens. Indeed, for Amartya Sen, such freedoms would have social and economic conditions, such as education, health, civil and political rights, in a way that the focus of public policies and research would be aimed at improving these elements (Sen, 2000), if the country's development was aimed for initially.

Based on the premises of Haq and Sen, the HDI was created, which, annexed to the Human Development Report developed in 1990 (UNDP, 2018), weighs the levels of access to education, life expectancy and Gross Domestic Product per capita. Based on this criteria, the best ranked country in 2015 was Norway, followed by Australia, Switzerland and Germany — in fourth place. Brazil, on the other hand, occupied the seventy-eighth position (UNDP, 2016).

One of the critiques directed at the Human Development Index concerns the fact that such an instrument does not portray the existing inequalities within each of its parameters. As an example, with regard to the level of education, a society may have such a high average of individuals with many years of schooling that it eventually masks its number of illiterates and, therefore, its educational inequality. In this sense, in addition to these critiques, as of 2010, the Human Development Report started to convey the Human Development Index adjusted to Inequality, which analyzes the existing inequalities in each of the parameters of the HDI (life expectancy, per capita income capita, schooling), making it possible to calculate which countries are the most equal in these aspects (UNDP, 2016). In this index, the best placed country in 2015 remained Norway, followed by Iceland, Australia and the Netherlands — the latter two, tied for third place with a coefficient of 0.861. Brazil, on the other hand, occupied the seventy-eighth position with an index of 0.561 (UNDP, 2016).

When analyzing the inequalities existing within each of the parameters mentioned above, the Human Development Index Adjusted to Inequality conveys important data about the real quality of life of citizens in the indexed countries. However, it is necessary to ascertain whether the constant assessment in this classification would be related to the level of justice of these societies; in other words, what is being questioned is whether the best ranked countries are necessarily the fairest. This is because, *prima facie*, when analyzing this classification proposed by the United Nations Development Program, it can be seen that, despite occupying the nineteenth position of the ranking, strongly influenced by the volume of wealth they concentrate, the United States has an inexpressive distribution of wealth, occupying the seventy-eighth position in the GINI index, as well as occupying the forty-third position, with regard to gender equality (UNDP, 2016).

It is noteworthy that the HDI was not intended to index the most just societies — this is a central problem in Rawls' analysis: what makes a society fair? —, but those that, in the perspective of Mahbub ul Haq and Amartya Sen, expressed a better quality of life

for their citizens, in order to provide the strengthening of their freedoms (Haq, 1995). This time, as already explained, the core of this investigation is precisely to answer which elements, in the light of the Rawlsian theoretical perspective, should be arranged in a ranking in order to better feature the fairest countries.

Such an analysis is of paramount importance, as with the creation of the HDI — in which the economic focus was shifted in the name of an approach centered on the quality of life of citizens (Haq, 1995) — the present work will seek to change it again, aiming to allocate social justice as representative of the development situation of each country.

The interesting thing about this creation of parameters and the ranking of countries based on these guidelines, is the fact that there is a tendency for nations to seek better positions, which, in turn, will only occur, with due investment in the areas being evaluated. This statement can be verified from the data provided by the United Nations, on its website, from which it can be seen that, from 1990 — the first year in which the HDI was made available — to 2015, practically all countries achieved an improvement in their indices (UNDP, 2018), demonstrating, therefore, a greater concern with the pre-established parameters in the ranking. In this sense, it is argued that the migration from a quality of life index, as in the case of the HDI, to a social justice index, could encourage the countries currently ranked to invest in their areas under evaluation, in order to foster emergence of more just societies, or at least, aggregate “tools” to think of a more just society to the HDI Adjusted to Inequality.

In order to subsidize a future elaboration of this index, it is necessary to ask what would be those elements that, in the light of the veil of ignorance theory, as well as the principles of equality and difference that underlie them, would integrate a just society. It is important to note that, although the present work highlights elements that in theory would belong to the most just societies, in order to enable, in the future, the formulation of a social justice index, the list of parameters that will be presented below is not exhaustive, and the that instrument be updated to better reflect the peculiarities of each society.

Thus, as already seen, “*for Rawls, the most just basic structure of a society is one that someone would choose if they did not know what their particular role would be in that society's cooperation system*” (translated by the authors) (Lovett, 2013. p. 24). Based on this assumption, *prima facie*, it is argued that individuals, in their original position and



under the veil of ignorance, if they deliberated on the elements that would be present in a just society, would remove gender, religious and ethnic inequalities.

This argument is based on the mental experiment established by Rawls that rational individuals would not choose the existence of these inequalities if they were unaware of the role they would play in society. Therefore, a system in which a person's remuneration for identical work is lower, because the employee has differences in relation to skin color, religious orientation or gender, is objectively unfair, since no rational — and reasonable — subject would defend a segregationist society if he did not know whether he was occupying the position of the segregated.

Based on this reflection, it is argued that the Social Justice Index should contain information about gender, ethnic and religious inequalities, among other issues, so that this data has a certain weight when the referred instrument is calculated. This is because, as it is possible to observe in the Human Development Report, although it contains, for example, information about gender inequality between countries, such data was not taken into account when calculating the HDI.

Such a gap is quite criticizable, since if the HDI is intended to represent the quality of life in countries, its data would be more reliable if it reflected the real situation of all citizens, and the exclusion of inequalities in its calculation base is not legitimate, under a penalty for masking societies that, despite their remarkable development rates, are highly discriminatory. This is precisely the point of view taught by John Rawls to oppose Moral Utilitarianism, because, as already explained, such a philosophical current, the balance of satisfaction of the group investigated was used as a parameter (Rawls, 2016); however, the author's criticism is precisely in the sense that the use of “balances/averages” as assessment tools, in addition to not reflecting the real situation of what is being investigated, may make possible the legitimacy of an oppressive and discriminatory system of minorities.

Therefore, it is argued that an index that classifies countries using social justice as a foundation should use the existing inequalities in these evaluated societies as a basis for calculation.

In order to guarantee greater reliability in the level of justice in the countries, the gender inequality index contained in the Human Development Report (UNDP, 2016) will be analyzed, as one of the parameters for measuring social justice. Such an index provides valuable information about inequality between male and female individuals in previously determined societies. Among them, is the percentage of the number of seats occupied by

women in parliament, which aims to demonstrate the empowerment of women, in terms of their ability to create laws and change public policies. In this regard, Rwanda was the country with the highest participation of women in parliament, with 57.5% of the seats occupied by them, followed by Bolivia with 51.8% and Cuba with 48.9%. Brazil, on the other hand, occupied the 157th position in the ranking, with 10.8% of the parliamentary seats occupied by women.

The difference in schooling, particularly, between the number of high school graduates of each sex was also taken into account in this index, which showed that Canada, Finland and Estonia occupied the first position since 100% of the individuals of both genders completed high school. Brazil, on the other hand, would occupy the 69th position since there is a 3.9% difference between the number of women (59.1%) who completed high school and the number of men (55.2%).

In addition to the aforementioned criteria, the percentage of women present in the labor market, as well as information about their reproductive health, were also taken into account in the gender inequality index. The importance of this last issue stems from the fact that data such as maternal mortality and teenage pregnancy are directly related to the capacity for female self-determination (UNDP, 2016).

After weighing the aforementioned information, the gender inequality index considered Switzerland to be the most egalitarian country with the index of 0.040, followed by Denmark, the Netherlands and Sweden, respectively in second, third and fourth places. Brazil, in turn, occupied the ninety-second position with an index of 0.414 (UNDP, 2016). It is worth mentioning the fact that some countries, considered exemplary in terms of their quality of life, regarding gender equality, had a significant drop in rankings. This is the case of the United States, which, as already explained, represents the tenth largest HDI in the world and occupies the forty-third position regarding gender inequality, as well as Australia, Ireland and New Zealand, which were, respectively, in the second, eight and thirteenth positions and migrated, respectively, to the twenty-fourth, twenty-sixth and thirty-fourth positions. In this sense, according to the hypothesis established in this essay, it is possible that the inclusion of other elements related to social justice in the calculation of the HDI could significantly change this classification proposed by Haq and Sen, as well as that the perception about the quality of the best positioned countries be changed. Therefore, the analysis of equality and freedom of belief in the countries mentioned above will continue.

With regard to religious diversity, the present work used the research carried out by the Pew Research Center, which proceeded to map religious intolerance in the world (Pew, 2012). The use of religious freedom as one of the criteria to subsidize a just society stems from the premise that individuals cannot have their rights or opportunities restricted due to their beliefs, under penalty of violation of the principle of equality established by Rawls. Thus, taking into account elements such as government restriction on religion and the degree of social hostility resulting from it, the aforementioned research mapped religious intolerance in countries, as well as highlighted the worsening of this situation in most nations, including in places — as is the case of Switzerland — which, according to the research, have traditionally been considered quite pluralistic (Pew, 2012).

The text uses as an example the fact that, despite the 5% of Muslims residing there, in 2009, Switzerland passed a law, endorsed by 57% of its population, which prohibited the construction of minarets — a kind of tower whose purpose is to call other religious to prayer — in mosques. Such limitation represents a serious case of discrimination against the Muslim population that resides, since they are unable to fully exercise their fundamental rights regarding religious freedom.

With regard to governmental restrictions, twenty criteria were used, such as: the existence of constitutional and infraconstitutional provisions on religious freedom; government interference with religion; prohibition of a particular belief or the use of symbols or clothing by the population; freedom of religion exchange; the occurrence of literary restrictions on the subject; government violence against minority groups or their neglect to intervene in cases of discrimination perpetrated by other groups; government funding for certain religious groups, among others.

For this criteria, the country with the highest ranking was Sierra Leone with the index 0. This fact is ratified by the International Report on Religious Freedom provided by the United States Department of State, which stressed that despite the diversity of cults in the country, “*the generally friendly relationship between religions in society contributed to religious freedom*” (translated by the authors) (STATE, 2003a, p. 1). In addition, according to the report, in that country — made up of Muslims, Christians and traditional indigenous religions —, in schools, students can even choose to attend religion classes taught by Muslims or Christians. The Republic of San Marino came in second, with a rate of 0.1, followed by small nations with a rate of 0.2, among them Palau, Micronesia, Saint Thomas and Prince and, with 0.3, Uruguay, Cape Verde and Guinea Bissau.

It is important to note that countries already studied with a high HDI, such as Norway, Australia, Switzerland and Germany, occupied the ninety-sixth, seventy-ninth, ninety-fifth, and one hundred and thirty-ninth positions, respectively (Pew, 2012). In relation to Germany, according to the State Department report mentioned above, there are several problems of persecution in the face of minority groups in the country (STATE, 2003b). Furthermore, in the country, until 2015 — with the decision of the German Supreme Court —, the use of the Islamic scarf by the teachers of public schools was prohibited and it was also mandatory that classes were taught “*with priority to Christian values and traditions*” (translated by the authors) (Estadão, 2015, p. 1). It is noted that the use of these other parameters in the present research, as is the case of freedom of belief, may, as had happened with gender inequality, subvert the impression that the country with the highest quality of life in theory would be the most fair.

Regarding the degree of Social Hostility related to religion, the aforementioned report (Pew, 2012) started from thirteen criteria, such as the existence of crimes, aggression, war or armed conflicts motivated by religious hatred or prejudice; violence between religious groups or the attempt to prevent other religions from operating in the country; existence of active terrorist religious groups; violent imposition of religious norms; harassment of women for violation of dress codes imposed by the church, among others. In this regard, thirty-six countries obtained an index of zero, especially Uruguay, Ecuador, Peru, Finland, Ireland, San Marino and Palau. In this regard, it is worth mentioning that the Netherlands, Norway, Australia, Switzerland and Germany, which, despite their excellent classification in the HDI, regarding the social hostilities related to religion, were, respectively, in one hundred and third, one hundred and fifth, one hundred and thirteenth, one hundred and thirtieth and one hundred and seventy-sixth positions. Brazil, in turn, was in the one hundred and forty-seventh position of the ranking.

Finally, the analysis of the ethnic-racial inequalities in the countries currently ranked is analyzed. In these terms, based on Rawls' theory of justice, it is envisaged that a just society is one in which factors such as ethnicity, phenotype or nationality do not serve as criteria to define the basic freedoms and opportunities of individuals. This discriminatory factor still exists in contemporary societies, as is the case in Brazil, which despite its black and brown population comprising 54.2% of the Brazilian population (IBGE, 2016), according to Atlas da Violência — prepared by the Institute of Applied Economic Research (IPEA, 2018) —, for every ten people victims of homicides that occurred in Brazil in 2016, approximately seven were black or brown.

Furthermore, as extracted from the Brazilian Institute of Research and Statistics (IBGE, 2018), while the illiteracy rate in the white population corresponded to 4.2% of the population in 2016, the illiteracy rate of the black and brown population was of 9.9%. The aforementioned discrepancies also persisted in the remuneration, where the former received, on average, R\$2814.00 (two thousand eight hundred and fourteen reais) and the black and brown population R\$1606.00 (one thousand six hundred and six reais) and R\$1570.00 (one thousand five hundred and seventy reais), respectively.

Another data of great relevance was the report developed in 2017 by the United Nations Program (UNDP) in partnership with the Institute for Applied Economic Research (IPEA), entitled “development beyond the averages” (IPEA, 2017), which analyzed the Human Development Index based on ethnic-racial criteria, between 2000 and 2010, in order to highlight the discrepancies and inequalities that exist in countries. In this sense, among the countless information conveyed in the report, it is important to highlight that, in 2010, while the HDI related to the Brazilian white population was 0.777, that of the black population was only 0.679. With regard to life expectancy, the black population lives, on average, two years less than the white population (IPEA, 2017).

It is possible to observe that part of the Brazilian population, just because they have lighter skin tones, live longer, have better educational conditions, suffer less violence, as well as enjoy higher salaries and have a better quality of life than other individuals. It is concluded, therefore, that, based on this data, Brazil would most likely not be considered a fair country in the perspective of John Rawls, since skin color is a determinant of the basic freedoms of its citizens. It is believed that the same occurs with other nations, however, it was not possible to identify, in literature, systematic reports about ethnic-racial discrimination in the world. Despite the absence of a global ranking on the subject, there are numerous studies and regionalized analyzes that explain a high index of discriminatory behaviors practiced in the face of minority groups.

This is the case of the report made available by the European Union, in November 2018, entitled “Being Black in the EU” (European Union, 2018), which will be used as a parameter for the discussions developed next. According to the document, its creation was motivated by the frequent cases of ethnic-racial discrimination, social exclusion, as well as the relativization of fundamental rights suffered by black citizens of the countries members of the European Union.

The aforementioned research analyzed the countless facets of the discriminatory process suffered by these individuals, ranging from their institutionalization perpetrated,

as a rule, by police officers to the segregation suffered in schools and in the labor market. In this sense, the document, based on the analysis of responses from 5,803 immigrants and descendants of black immigrants of African origin, residing in twelve European Union countries (Austria, Denmark, France, Finland, Germany, Ireland, Italy, Luxembourg, Malta, Portugal, Sweden and the United Kingdom), reported numerous cases of violations these individuals' fundamental rights. He explained that about one third of the interviewees claimed to have suffered some kind of racial discrimination in the five years prior to the survey, which range from verbal and non-verbal offensive behavior, representing 41% of cases, to threats of violence or violent behavior, respectively, 8% and 5% of cases. The report also demonstrated that cases of racism in these countries are, as a rule, underreported, as 64% of victims of racist violence and 63% of victims of racist physical attacks by police officers did not report the incident to any organization, arguing impunity of these subjects (34%) or because they do not trust or are afraid of retaliation by the police (28%).

Discrimination also persists in the labor market, since about 26% of these individuals work in manual services, although part of them had sufficient technical qualification to exercise specialized activities. In this sense, the report stated that 9% of the black population with higher education perform low complexity activities, representing almost twice the population in general, whose percentage is around 5%. The same occurs when it comes to housing, since, while 70% of the general population owns their own home, only 15% of the black population has this convenience. Discrimination also persists in real estate leases, as around 14% of respondents reported having been prevented from renting a home due to ethnic or racial issues.

In order to individualize the places where these processes take place, regarding fundamental rights in relation to certain groups, the document analyzed the discriminatory processes in each of the twelve countries mentioned above, especially regarding cases of persecution and violence motivated by racism, in face of the interviewee, friends or their family. In this sense, with regard to persecution, the research analyzed several issues, such as verbal violence, offensive gestures, e-mails and online threats. After about 30% of the interviewees claimed to have suffered some of the aforementioned discriminatory processes in the last five years, with the largest number of discrimination occurring in Finland, where 63% of the interviewees claimed to have suffered some of the aforementioned persecutions, followed by Luxembourg with 52%, Ireland with 51% and

48% in Germany and Italy. The countries with the lowest indexes were Malta, the United Kingdom and Portugal, whose percentages were 20%, 21% and 23%, respectively.

Regarding physical violence motivated by racism, the survey reported that the highest rate had occurred in Finland, since, in the last five years, 14% of respondents reported having suffered some type of physical aggression. With rates of 13%, Ireland and Austria occupied the second position in the ranking, followed by Luxembourg with 11% of respondents and Germany with 9%. The countries with the lowest rates of racial violence were Portugal, England and Italy, respectively, with 2%, 3% and 5%. The research shows that immigrants from Africa tend to suffer more violence than other immigrants, since, while 11% of respondents claimed to have suffered physical violence in the last 12 months, only 5% of respondents of Turkish origin reported having been a victim of some kind of similar aggression.

From the analysis of the data contained in the present work it is possible to infer that, although countries like Germany, Denmark, Ireland, Finland and Austria, are world leaders in quality of life, occupying, respectively, the fourth, fifth, eighth, twenty-third and twenty-fourth places in the HDI, this privilege is not extended to all its citizens. This is because depending on factors such as skin color, origin, sex, gender, as well religion, their fundamental rights and guarantees can be strongly relativized. This is precisely the case of Denmark and Germany, which, despite being among the five best countries in the world according to the HDI, as already seen, these nations are discriminatory in relation to the black population and non-Christian religious minorities — see index of religious intolerance cited above (Pew, 2012).

Furthermore, it is noteworthy that in addition to the process of violence and persecution that these minority groups suffer in these countries, there are also numerous restrictions on opportunities. In fact, the aforementioned report made available by the European Union (EU, 2018), highlighted that, regarding job opportunities, while 77% of the population in Denmark are economically active, only 41% of African descendants exercise any type of paid activity. In Germany, there too is disproportion in this regard, since about 80% of its population does some kind of work, while only 69% of the black population are in the same conditions. The same discriminatory process occurs with regard to the right to housing, since, although 62% of the Danish population and 52% of Germany have their own housing, only 3% and 6%, respectively, of the population of African origin who live there enjoy the same privilege. In addition to the discriminatory processes just described, the aforementioned investigation carried out by the European

Union brought numerous other data about the social injustice perpetrated by nations in the face of minority groups living there, which range from violence and persecution to the exclusion of basic rights, such as housing, work and education.

That said, based on the information and questions currently being conveyed, it is possible to see that, although the creation of the HDI has provided countless advances to the contemporary world — in particular, the migration of the nations' focus, previously turned to the accumulation of wealth, towards an approach centered on the quality of life and on the freedom of individuals — it is important to update its criteria or even to replace that instrument by another that seeks to show, also, the most just societies. This is because, as already seen, countless countries, considered the best in the world in terms of quality of life, do not provide their citizens with an equal distribution of fundamental rights and guarantees. In this sense, a black person, a woman or a Muslim, depending on the nation in which they are inserted, may have a lower quality of life or degree of freedom than that of the worst countries in the ranking of human development.

Such an imbalance, in John Rawls' perspective, materializes in a clear scenario of social injustice, which must be avoided at all costs, under penalty of extirpating the basic rights and freedoms of different people, markedly from minorities.

## 5 FINAL CONSIDERATIONS

This essay does not aim, of course, to exhaust the theme about social (in)justice in the world. The research aims only to provoke the reader about the need for reflection on the current mechanisms of assessment of nations, in order to guarantee an equitable distribution of the rights and advantages of the inhabitants within each nation.

It is possible to note that, despite the revolution brought by the theorists Mahbub ul Haq and Amartya Sen in the creation of the HDI — in particular, in changing the focus of wealth accumulation to an approach directed to the quality of life of its inhabitants — it must be stressed that minority rights are not yet sufficiently guaranteed.

In this sense, a change is proposed in the form of indexing countries, for an approach that has other issues such as gender inequality, ethnic inequality and religious bias — among other possibilities that can be incorporated —, so that it is expressed with greater reliability to the real situation of each nation and that, based on the results, it is possible to consolidate societies that, objectively, any individual would like to live independently of the role that they might have.



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