

# ANALYSIS OF INEQUALITIES WITHIN UNIONS IN THE LIGHT OF JOHN RAWLS 'SECOND PRINCIPLE OF JUSTICE

SUBVERSÃO DO SIGNO  
HEGEMÔNICO DA REPRESENTAÇÃO SINDICIAL:  
ANÁLISE-CRÍTICA DAS DESIGUALDADES DENTRO DOS SINDICATOS  
À LUZ DO SEGUNDO PRINCÍPIO DA JUSTIÇA DE JOHN RAWLS

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## ABSTRACT

John Rawls, in his work "A Theory of Justice", explains what to consider the Theory of Justice through the analysis of two principles: the first, which deals with equal basic freedoms for all; the second, which deals with balance and balance in social and economic economies and their connection with accessibility to loads and leadership positions in all. The author states that such principles must be adopted by collective entities that they call Social Institutions, which, in turn, form a basic structure of society. Within the scope of Collective Labor Law, it is identified that the indicators conform to the concept of social institutions described by Rawls, so that it is convenient to analyze the application of the principles of justice in such entities. The applicability analysis of the second principle of justice can be taken as a basis, since indicators are historically more common as institutions that prioritize the voice of white, heterosexual and cisgender men in their internal structure. When performing a critical analysis of the structure of the indicators, we suggest that you apply the second principle of justice, such as the balance of social inequalities, the economy and the opportunity to access loads and positions, assist in the pluralization of the internal environment of such entries, in a way that its demands demand and fight flags normally altered in order to include workers tend to occur in more social, economic and cultural classes, to use a fairer environment, according to Rawls' liberal egalitarian vision of justice.

**KEYWORDS:** Collective Labor Law. Theory of Justice. John Rawls. Syndicate.

## RESUMO

*John Rawls, em sua obra "Uma Teoria da Justiça", realiza explicações sobre o que considera ser a Teoria da Justiça através da análise de dois princípios: o primeiro, que trata sobre liberdades básicas iguais*

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### How to cite this article/Como citar esse artigo:

BOMFIM, Rainer; ROCHA, Marina Souza Lima. *Analysis of inequalities within unions in the light of john rawls 'second principle of justice*. Revista Meritum, Belo Horizonte, vol. 15, n. 3, p. 344-357, Sep./Dec. 2020. DOI: <https://doi.org/10.46560/meritum.v15i3.7763>.

para todos; o segundo, que trata sobre igualdade e equilíbrio nas desigualdades sociais e econômicas e a sua vinculação com a acessibilidade a cargos e posições de lideranças a todos. O autor afirma que tais princípios devem ser adotados por entes coletivos que chama de Instituições Sociais, que, por sua vez, formam a estrutura básica da sociedade. No âmbito do Direito do Trabalho Coletivo, identifica-se que os sindicatos se amoldam ao conceito de instituições sociais descrito por Rawls, de maneira que se torna conveniente a análise da aplicabilidade dos princípios da justiça em tais entes. Pode-se tomar como base a análise da aplicabilidade do segundo princípio da justiça, uma vez que os sindicatos se mostram, historicamente, como instituições que priorizam em sua estrutura interna a voz dos homens brancos, heterossexuais e cisgêneros. Ao realizar uma análise crítica da estrutura dos sindicatos, sugere-se que a aplicação do segundo princípio da justiça, como equilibrador de desigualdades sociais, econômicas e de oportunidade de acesso a cargo e posições, auxiliaria na pluralização do ambiente interno de tais entes, de maneira que as suas próprias demandas e bandeiras de luta naturalmente seriam alteradas de modo a abarcar trabalhadores/as pertencentes às mais variadas classes sociais, econômicas e culturais, proporcionando um ambiente mais justo, segundo a visão liberal igualitária de justiça de Rawls.

**PALAVRAS-CHAVE:** Direito Coletivo do Trabalho. Teoria da Justiça. John Rawls. Sindicato.

## 1 INTRODUCTION

Under the legal-critical methodological approach (GUSTIN, DIAS, 2013, p. 23), the aim is to analyze the inequality within trade unions focusing on John Rawls' political theory, especially the second principle of justice elaborated by the author in the book "A theory of justice" (2008). The work is justified by the centrality of union action in the struggle for Collective Labor Law that is focused on a male, white, cisgender sign, being centered on a subject typically marked as modern. Thus, the election and analysis within the spectrum of political philosophy is a choice to slowly occupy strategic spaces that are also majority male, white and elitized by a hegemonic knowledge paradigm in the global north (BALLESTRIN, 2003; EISENSTEIN, 2014).

Thus, the question-problem to be answered is whether with the practical application of the second principle (equality), elaborated by John Rawls, the union would become a more democratic institution and attentive to the demands of contemporary society? In face of this, the hypothesis of this work is that if the aforementioned principle is respected, in the molds and assumptions presented by the philosopher, we would have a structure more open to the plurality of subjects and more egalitarian to those workers of modernity.

Contextually, one of the main entities of collective representation in the country (if not the main one) is the union, because it is an organ structured, with constitutional protection, to give voice to the working class in its unfair relationship established with employers. Therefore, to understand the reason for its existence with normative protection is to try to establish dialogs, conflicts and rules, through the creation of collective norms (Collective Labor Agreements and Collective Labor Conventions), that guarantee the workers the minimum rights necessary for that employment relationship to establish a dignified and fair life, according to the dictates of the Federative Constitution of the Republic of Brazil of 1988 (CFRB/88) and the International Labor Organization (ILO).

In this way, the reach of what is called a "dignified and fair life" would be through the effectiveness of the fundamental principles of the CFRB/88, being important that for this

reach the unions act in a fair and inclusive manner in their negotiations. It happens that, within their own internal structure, unions are not usually fair when it comes to the distribution of jobs and positions, reproducing the discriminatory practices suffered by society's marginalized population and contributing to the perpetuation of economic and social inequalities of members of the heterogeneous working class.

The trade unions, in their great majority, show themselves as a portrait of what happens in the companies: white and cis men are prioritized in face of the other classes and genders. Women<sup>3,4</sup> for example, have not yet reached the level of leadership necessary to guarantee their fair representation in these bodies. This makes it necessary to constantly raise the awareness of the working class about the importance of valuing the female figure in the workplace.

Thus, it becomes imperative to rethink the way in which unions, in their own internal dynamics, distribute jobs and positions, applying John Rawls' "Theory of Justice" to reflect about the injustice that hovers over these institutions.

The work is developed with a presentation of the unions as social institutions, then the second principle of Rawls' theory of justice is presented and the text concludes with the construction of the need to reformulate the internal structures of the union, in search of more justice and equality.

## 2 THE UNION AS A SOCIAL INSTITUTION

Social institutions are fundamental to the proper functioning of society, and understanding them as collective entities and integral parts of our complex normative structure is a task that demands certain depth and attention (RAWLS, 2008). John Rawls (2008, p. 58) states in his book "A Theory of Justice" that social institutions are a public system of rules that define positions with their rights and duties, powers and immunities.

It can be said, therefore, that each social institution has a normative set that governs the behavior of its individuals, either by the coercive character of its norms, or by their acceptance and recognition as normatized collective structures (RAWLS, 2008).

For Rawls (2008), the scope of what he considers a "Theory of Justice" depends on balanced, effective and fair social institutions, which form, in turn, a basic social structure that

3 There is statistical evidence that there is flagrant and persistent gender inequality in the labor market that prevents women from enjoying the same conditions, wages and opportunities as men in this sphere. According to data collected by the IBGE (Brazilian Institute of Geography and Statistics), women, in 2016, had an average monthly income of R\$1,764, while that of men was equivalent to R\$2,306. This is due, in large part, to the fact that men occupy most managerial positions (public or private) in the country: according to data from the same institute, 60.9% of these positions were held by men and only 39.1% by women, even the latter having, on average, a higher level of education than men (also according to IBGE data). Moreover, the invisibility and vulnerability in work environments is justified by the fact that women have, for the most part, to fulfill a double work day, since they are still largely responsible for household chores, according to the IBGE (they dedicated, in 2016, 73% more hours than men in weekly household chores) (BRASIL, IBGE, 2018).

4 In the scope of this research, the term women is considered, in the heterogeneous sense, understood as the plural and expanded universe of which women, LGBTI+ women, black women, and other classifications participate. It is also considered, in the same sense, the heterogeneity of female workers participating in the plural and dispersed universe of workers in general.

is fundamental to society. Furthermore, he states that social justice depends on the cooperation of these institutions for the realization of its principles:

The first object of the principles of social justice is the basic structure of society, the ordering of the principal social institutions into a scheme of cooperation. We have seen that these principles should guide the assignment of rights and duties in these institutions and determine the proper distribution to the benefits and burdens of social life. Principles of justice for institutions are not to be confused with principles that apply to individuals and their actions in particular circumstances. (RAWLS, 2008, pp. 57-58).

In this sense, unions fit the concept of social institutions, since they represent a collectivity of workers and, in its internal dynamics, delegates positions, rules, rights and duties.

The working class represents, historically, an (over)exploited people, who were evicted from the means of production by the capital owners, leaving them to sell their labor force to survive (MARX, 2014). Therefore, the worker represents the hyposufficient part of the labor relationship and, in order to reduce the unequal relationship between capital and labor, he/she organizes with other members of his/her class to form a collective subject of struggle that establishes a more symmetrical relationship to face and negotiate with the employer.

Therefore, it is known that unions can be unfair and excluding institutions; however, it is important that such institutions exist, so that even failed attempts can be turned into examples of the eventual application of a theory of justice (RAWLS, 2008).

### 3 TRADE UNIONS: FAIR SOCIAL INSTITUTIONS?

In order for one to speak of fair trade unions, it is fundamental that their management be impartial and effective, in such a way that impartiality is understood here to mean that trade unions must abstain from value judgments in their management and actions towards their public. An example of this impartiality would be that their directors or officers should not fail to add to their operating structure people of a certain gender or race for strictly personal and subjective reasons. Another example would be that of not letting the power of capital influence the collective negotiations that they establish with employers (in a way, it is a utopia to say this, because, according to a Marxist interpretation, capital is the one who controls this "employer/employee x worker" relationship. But, at the same time, it would also be a utopia to think of a theory of justice to be applied to the union ambit in a capitalist system, when both parties are in a recognized material inequality?)

Likewise, it is understood that the very exercise of thinking of an ideal, fair and impartial way for unions to operate may be a utopian exercise, but it is still necessary, because, according to Rainer Forst<sup>5</sup>, full justice<sup>6</sup>, in the vision employed by the author, may indeed be unattainable, but its constant search by citizens is inevitable (FORST, 2018, p. 243).

5 For more information, see Rainer Forst's 2018 work *Justification and Critique. Perspectives on a Critical Theory of Politics*.

6 One wonders what these conditions of full justice are in a capitalist context of exploitation of workers' labor, but held by the tradition of the adopted political philosophy.

Trade unions, as much as they cannot be completely fair in their actions, at least manage to mitigate the disparity caused by the exploitative relationship between employers and workers, which strengthens the freedom of struggle of the working class.

The author, going even deeper into the theme, as well as introducing the concept of formal justice, affirms:

Let us further imagine that this conception of justice has wide acceptance in society and that institutions are impartially and consistently administered by judges and other authorities. That is, similar cases are treated similarly, the similarities and differences being those identified by existing norms. The correct rule set by the institutions is regularly observed and properly interpreted by the authorities. This impartial and consistent administration of laws and institutions, regardless of what their fundamental principles are, can be called formal justice. If we think that justice always expresses some kind of equality, then formal justice requires that in its administration, laws and institutions must apply equally (i.e. in the same way) to those who belong to the categories defined by them. ... Formal justice is adherence to the principle, or, as some have said, obedience to the system (RAWLS, 2008, p. 61-62).

In such a way that we can call formal justice the fact that the subjects of the labor relationship (workers and employers) respect the rules and principles established by the institutions that command them (e.g., **Labour court**, legislation, precedents, jurisprudential guidelines, and unions). Thus, if there is general recognition that a collective norm, a law or a custom must be respected, regardless of whether they are, in fact, fair or not, then there is the figure of formal justice, or only in formalistic conceptions.

According to John Rawls (2008), even if laws and institutions (in this case, unions) are unjust (to different degrees), it is less harmful to respect their determinations, than to establish a deinstitutionalizing environment, without rules and laws. The author states that even unfair institutions (such as most unions and their collective bargaining) do more justice than the absence of normativity and of an institution that represents the working class. It must be emphasized that this is Rawls' (2008) position, and it is not necessarily the correct or hegemonic understanding. An environment that has unjust norms opens room for several types of discrimination, such as sexism, racism, and authoritarianism, for example. In view of this, it is necessary to understand that not all injustices are justifiable under the pretext that the absence of norms would be more harmful (RAWLS, 2008).

Thus, a start for the achievement of a theory of justice is to establish a minimum acceptable standard of recognition for institutions and their norms. In this case, the very fact that unions exist and have certain bargaining power is already a first step towards the application of the principles explained by Rawls, necessary for the realization of the theory of justice.

## 4 JOHN RAWLS' PRINCIPLES OF JUSTICE

Trade unions are social institutions that have the power of collective bargaining in order to establish a normative minimum necessary for the existence of a formal justice. In light of

this, we move on to the analysis of the "principles of justice" that, according to Rawls, are necessary for the effectuation of a fully just structure. According to the Author, the two principles are as follows:

First: each person should have an equal right to the most comprehensive system of equal basic freedoms that is compatible with a similar system of freedoms for others.

Second: social and economic inequalities should be so ordered that they are at the same time (a) regarded as advantageous to all within the limits of reason, and (b) linked to positions and offices accessible to all (RAWLS, 2008, p. 64).

He states that the first principle precedes the second, so that everyone must be assured equal basic freedoms (political freedom to vote, freedom of speech to demonstrate and speak, freedom of conscience, etc<sup>7</sup>). Only then should it be ensured that the distribution of wealth and opportunities should be advantageous to all, even if not equal. According to the second principle, everyone should have the same opportunities, and positions of authority and responsibility should be accessible to all.

As far as the point of view of Collective Labor Law is concerned, one can state that, in a neoliberal<sup>8</sup> capitalist system, it becomes a Herculean task to see a horizon, even if distant, that ensures a fair distribution of wealth. Furthermore, there is little possibility of everyone having access to positions of authority and responsibility, since these, in union environments in general, belong almost exclusively to white, cis men.

Summarizing the understanding of the two principles, therefore, the fact that Rawls states that both apply to social institutions, makes us assume that they are applicable, as a consequence, to unions.

## 5 THE APPLICATION OF THE SECOND PRINCIPLE OF JUSTICE TO THE UNION

If the workers have all their liberties preserved, the second principle that determines a distribution of wealth that is beneficial to all will come into effect. However, it would be inno-

7 In order to understand the importance of the concept of "basic freedoms" for Rawls, we transcribe the lesson of Denilson Luis Werle, who, when explaining what they are about, states that they are the basic condition for the proper development and full exercise of human moral capabilities. Let's see: "Rawls will continue to maintain the thesis of priority of freedom in the sense that one freedom can only be limited or denied for the sake of another or other fundamental freedoms, and never for considerations of general welfare or perfectionist values. Since the fundamental freedoms can be limited when they clash with each other, none of them can be considered absolute. To justify the priority of the basic freedoms Rawls clarifies which concept of person is at the basis of political liberalism. Besides being seen as free and equal citizens, people are taken as citizens who possess two moral faculties (or capacities): that of having a sense of justice and that of forming, pursuing, and revising a rational conception of the good. The list of basic freedoms suggested by Rawls represents the fundamental social conditions for the proper development and full exercise of these two capacities of the person throughout life, fundamental to the development of a sense of personal independence and self-respect [...] What justifies the concept of person adopted by Rawls is the very purpose of justice as equity: "the aim is to formulate a conception of political and social justice in line with the most deeply held convictions and traditions of a modern democratic state. The purpose of doing so is to see whether we can resolve the impasse of our recent political history, namely, that there is no agreement on the way in which basic institutions should be organized to harmonize with the freedom and equality of citizens as persons" (WERLE, 2011, p. 190-191).

8 "Neoliberalism can be defined as the set of discourses, practices and devices that determine a new mode of government of men according to the universal principle of competition" (DARDOT; LAVAL, 2019, p. 15).

cent to say that workers, even with the intervention of social institutions (unions), have their basic freedoms preserved. To illustrate, it is enough to point out that, even with the formal provision that everyone is free to exercise the right to strike whenever, wherever, and however they see fit (art. 9, CFRB/88<sup>9</sup>), we see all the time, the judiciary declaring illegalities in legitimate strike movements, contrary to what is stated in CFRB/88, using as argument an infra-constitutional legislation (Strike Law - no. 7.783/89<sup>10</sup>) that has the sole role of limiting an exercise that, by determination of our constitution, should be full. In this sense, Rafael Borges Bias explains:

There is a conflict between the restrictive text of Law 7.783/89 and Article 9 of the Constitution, which establishes a broad conception of the right to strike, transferring to the workers the responsibility to decide the time and form of deflagration, as well as the claims they seek to conquer. It was delegated to ordinary law only the definition of essential services and activities, besides the treatment of the community's unpostponable needs, in the exact terms of paragraph 1 of article 9. However, Law 7.783/89 is a compendium of limitations to the exercise of the right to strike, violating the constitution, which does not have any expression subjecting form, purpose, or exercise of the strike to specific rules. The concept of strike is constitutionally definitive, not allowing restrictions. (BIAS, 2014, p. 7).

Márcio Túlio Viana argues that the existence of this infra-constitutional law should not be a limitation to the full exercise of strikes, since it should be read critically, without losing sight of the constitutional basis (VIANA, 1996, p. 302). Unfortunately, what we see in practice is a real limitation on the full exercise of the right to strike.

In this way, we see that, at least in Brazil, social institutions (either the Judiciary or the unions) cannot guarantee the full observance of the first principle of justice of Rawls, so that the scope of the second becomes equally limited.

The author, after a long explanation and deconstruction of the concepts of the various principles and sub-principles that he believes are part of this system, arrives at the theory that he believes is adequate for the construction of an ideal of justice and, consequently, also adequate for the idealization of unions, the object of this study (RAWLS, 2008). These are the "Democratic Equality" and the "Principle of Difference" (RAWLS, 2008).

Rawls states, about these institutes, specifically about the principle of difference, that it is a scheme in which the expectations of all people belonging to society increase, regardless of their social class, to the extent that the expectation of any of them, in isolation, increases. In this way, inequality can be maintained among them, however, the expectation of all of them improves when any of them reaches higher levels. Let's see:

We simply maximize the expectations of the least favored position, obeying the required constraints. As long as this brings benefits to all, as I have

9 Art. 9 The right to strike is assured, and it is up to the workers to decide on the opportunity to exercise it and on the interests they should defend through it. (BRAZIL, 1988).

10 Some authors claim that such law is unconstitutional. Among them, Baboin's lesson stands out: "Thus, Law 7.783/89, when establishing restrictions to the right guaranteed in article 9 of the Constitution, does it in an unconstitutional way. A mere ordinary law, whose approval requires only a simple majority of votes, cannot make it impossible to exercise a constitutional right, a right that is even of a fundamental nature in our legal system. As José Afonso da Silva points out, 'the best regulation of the right to strike is that which does not exist. The law that comes into existence should not go in the direction of its limitation, but of its protection and guarantee'". (BABOIN, 2013, p. 33). For more information on the subject, see "Atypical strikes: a new look at the resistance movements of the working class" by Marina Souza Lima Rocha.

assumed so far, the estimated gains, relative to the hypothetical equality situation, are irrelevant, if not impossible to determine. There may, however, be another sense in which everyone benefits when the difference principle is satisfied, at least if we make some assumptions. Suppose that inequalities in expectations are chain-linked: that is, if an advantage has the effect of raising the expectations of the lowest position, it also raises the expectations of all the layers in between (RAWLS, 2008, p. 85).

Finally, Rawls points out that the Principle of Difference gives weight to the considerations described by another principle: the principle of reparation (RAWLS, 2008, p. 107). This latter principle, according to the author, provides that: "undeserved inequalities require reparation; and since inequalities of birth and natural endowments are undeserved, they must be compensated in some way" (RAWLS, 2008, p. 107). This type of undeserved inequality is widely present within unions, whose leadership positions are mostly occupied by white men, precisely because they are made up of these natural characteristics overvalued by modernity (BALLESTRIN, 2013.).

Such union model represents the mirror of the Taylorist-Fordist factory, composed mostly by white men, "workers handling industrial equipment and dressed in overalls" (RODRIGUES, 2019, p. 4). Thus, to typify the working class in a homogeneous way, as if it only fit the white, industrial, male, and salaried mold is to perpetuate an excluding union space, configured by a colorless and masculine homogeneity (PEREIRA, 2017). It is to ignore a plurality of experiences and struggles of those who do not fit into this modern pattern (PEREIRA, 2017).

It is clear, therefore, that, adopting the point of view of democratic equality, the junction between the Principle of Difference and the Principle of Reparation is a good way to pave the way for social institutions towards an effective theory of justice.

Likewise, if unions could, by reformulating their bylaws and internal dynamics, make the actions of union members more diverse and plural, like the working class, this would be reflected in benefits for workers (Principle of Difference).

Thus, the starting point for the disadvantaged, or those who lack opportunities because of their social class, gender or race, will be as equal as possible within it, which will also reverberate in the labor market and, consequently, in society as a whole (Principle of Reparation). In this way, collective social institutions that not only promote Social Justice, but also make it effective through their actions, would really be constituted.

The manner, however, in which such social institutions should jointly apply the principles of difference and reparation is another matter for reflection, which, in view of its enormous complexity and difficulty of overcoming, should be the object of a new study, this time empirical.

## 6 REORGANIZING THE UNION STRUCTURE

The problem that is observed is the unjust, hierarchical, prejudiced and patriarchal structure found within the unions. How can these collective subjects that represent the heteroge-



neous working class fight for justice and greater labor rights in the capital/labor relation, if they themselves are unfair, excluding and unequal institutions?

Thus, Brazilian unions are composed, in their great majority, by white and cisgender men, especially when one evaluates the leadership positions (union leaders). If women, transgenders<sup>11</sup>, people of color and other marginalized groups do not (or only minimally) participate in the composition of the unions, then their voices are not heard or even remembered. Thus, these subjects are excluded not only from the labor market, but from the class struggle itself.

The absence or low social, racial, and gender diversity in unions can be diagnosed as a reproduction of the structural inequality of society, which ends up deepening and generating more and more inequalities in the labor market and in society as a whole, configuring itself in a historical vicious cycle of permanent exclusion of certain subjects (RODRIGUES, 2018). According to Adriana L. Saraiva Lamounier Rodrigues "a union that discriminates, that ignores minorities, that reproduces sexist speeches will not represent its workers. Democracy has to start inside union entities to who knows one day reach the business sphere as well (RODRIGUES, 2018, p. 92). It is necessary to break this cycle. Inequality does not start in the unions, but is appropriated by these collective entities. Thus, fighting and breaking it within unions will directly affect the levels of inequality (and, consequently, equality) in the labor market and in society.

Therefore, the issues of race and gender, in particular, are fundamental for the construction of a greater representativeness and political strength of the union. This is because the presence of social movement issues in the unions' agenda is essential to consider "the plural character of the contemporary working class, within which gender and race divides usually generate even more precarious situations for those who are not included in the male and white labor force" (DA SILVA, 2010, p. 122).

Regarding black men and women, there is a structural problem in society, which is proven by the existence of an extra burden of problems on them, resulting from their racial condition (SILVA, 2008). Jair Batista da Silva, in his text entitled "Racism and Trade Unionism - recognition, redistribution and political action of the central unions about racism in Brazil (1983-2002)" brings part of the resolution of the 5th National Congress of the CUT to demonstrate the reality experienced by black people and the apathy of Brazilian trade unions:

The recognition that racial inequalities constitute a structural problem of Brazilian society implies recognizing the fundamental role of the trade union movement in the fight against racism. In other words, it implies recognizing that, by not facing the racial issue, the union movement legitimizes and contributes to the reproduction of racial inequalities, frustrating a kind of tacit agreement between the oppressive and authoritarian State and unionism around the marginalization of black people. This agreement explains the fact that the data published by DIEESE are not even read by the majority of the leaders, nor considered in union action. In fact, when faced with the debate about the racial issue, the leaders limit themselves to solemn manifestations

11 If such characteristics are already marginalized separately, imagine, then, a black, transgender, and low social class woman? Therefore, it is fundamental to consider intersectionality. According to Crenshaw, the idea of intersectionality "refutes the enclosure and hierarchization of the major axes of social differentiation that are the categories of sex/gender, class, race, ethnicity, age, disability, and sexual orientation. The intersectional approach goes beyond simply recognizing the multiplicity of systems of oppression that operate from these categories and postulates their interaction in the production and reproduction of social inequalities" (CRENSHAW, 2002).

of solidarity that never go beyond discourse, at best. But there are weirder cases, in which comrades without any information other than that provided by the dominant ideology talk about the “advantages and benefits” of Brazilian racism when compared to South African or North American racism. Taken together, such behaviors configure the disservice rendered by unionism to the fight against racism, understood as an integral part of the fight for the democratization of Brazilian society. The responsibility of the syndicalism in the fight against racism is not due, it should be said in passing, to questions of humanitarian nature, but to the fact that half of the workers are black and, therefore, it is the duty of the syndicate to incorporate the interests of this segment [(Resolutions of the 5th National Congress of the CUT). CUT, 1994, p. 132 - Grifo JBS] (SILVA, 2008, p. 103-104).

Regarding women, a survey conducted by Dieese in 2017 on the number of union leaders by group and gender showed that, of the 139,567 union leaders of labor unions in Brazil, 99,738 are men and only 39,829 are women (SOURCE). The result of the research demonstrates a great inequality in the internal structure of the unions, which privileges men in management positions and that, “even when women manage to be part of the leadership, they hardly have a voice” (BERTOLIN; KAMADA, 2012, p. 47), because they are a minority and hardly find solidarity in an archaic and plastered structure.

Concerning the gender issue, Sara Deolinda Cardoso Pimenta (2012) points out that the male tradition of trade unionism generates the invisibility of women in the world of work and is historically reproduced in the sociological discourse by treating social class without referring to the sex of social actors. Even with the advance of feminist movements, for the author, unions remain under the male view and women are the object of a specific sociology, “as if the place of production where social class was dealt with was dissociated from social relations” (PIMENTA, 2012).

There needs to be a compatibility between what unions preach and how they organize internally. The union discourse that defends democracy, justice and the overcoming of inequalities, many times does not find support in the daily practical relations, thus masking the relations of oppression and discrimination (PIMENTA, 2012). Regarding the presence of women in these social institutions, Junéia Batista, Secretary of Working Women of the Central Única dos Trabalhadores (CUT), in an interview highlighted: “Even though the number of women in the world of work has (sic) increased, their presence in the union still does not reflect this proportion, especially when we check the positions of power in trade union organizations” (CONFEDERAÇÃO, 2016).

The working class can no longer be taken only as that constituted by “the worker, employed, unionized in the industrial sphere of a verticalized Taylorist-Fordist company, concentrated in a single production space in the national territory” (FLEURY; NICOLI, 2018, p. 15-16). The working class is plural, colorful, heterogeneous, composed of the most diverse cleavages (PEREIRA, 2017). Therefore, the participation of invisibilized subjects (in contemporary society and in labor relations) in the internal structure of unions can break with a homogeneous, white, patriarchal structure of the class struggle inherited from modernity, which seeks to erase the complex diversities of the social fabric (EISENSTEIN, 2014, p. 2) In this sense, for the re-signification of the social class category -and, consequently, for the

recovery of the effectiveness of collective struggles in contemporary<sup>12</sup> capitalism- one must overcome the analysis inherited from the rational-modern paradigm that conceives it as something homogeneous, and, therefore, colorless, universalist as in white, cisgender and masculine: work comes in colors, sexes, genders and is formulated through expressions of power that cross those subjects within their various social relations (PEREIRA, 2017).

In order for unions to configure themselves as fair social institutions, which provide a stability to a well-organized society, they need to support the struggle of the entire working class, so that they have dignified living and working conditions, as well as the right to access the internal positions of the union structure, with effective participation in the class struggle. The inequality that we see inside the unions, dominated by white cisgender men, is a harmful inequality that harms the representation of subjects that are already marginalized in society and in the labor market.

Because these are unjust and harmful inequalities (which do not fit Rawls' Principle of Difference, explained earlier) to those who are already in more precarious and exploitative situations, they must be transformed in order for the injustices within unions, which must be just social institutions, to cease.

The second principle of justice allows inequalities, but only if they bring benefits to all, which is not the case here. Such inequality is extremely harmful to women, people of color, LGBT+ and other marginalized subjects. Thus, it is necessary to apply and analyze the two principles of justice (freedom and equality) internally to the structure of the unions so that they represent the diversity of the social fabric. Only in this way can unions fight for more justice for male and female workers, confronting employers and capital itself.

Trade unions are representative bodies of the working class, but not of its heterogeneity. Therefore, they need to have an internal structure that is more egalitarian, fair, inclusive, and open to marginalized groups, especially black people, women, and the LGBT+ <sup>13</sup>community. According to Maria Antonino, "institutional spaces need to reflect society, but they still fail to do so" (ANTONINO, 2018).

In this sense, Flávia Souza Máximo Pereira states that "there is a conflict between capital and labor, but the social inequality generated by capital is not simply monolithic and excessive; it is particularly excessive according to color, gender, nationality, and sexual orientation" (PEREIRA, 2017, p. 78). For this reason, unions need to reinvent themselves internally and externally. Internally, by diversifying those who occupy management positions and externally, by turning their gaze to other movements that go beyond the economic-labor sphere, such as feminist and anti-racist movements (FLEURY; NICOLI, 2018). Discriminations arising from race and gender (among many others) support and are supported by capitalism<sup>14</sup>, which

12 The capitalism to which the text refers is the post-industrial, transnational and network capitalism that provides a scenario of de-characterization of the classic Labor Law paradigm, of precarization and de-collectivization of labor relations and of the blurring of the labor contract (RODRIGUES apud FERREIRA, 2000).

13 The acronym stands for Lesbian, Gay, Bisexual, the umbrella term Trans, which stands for transgender, transvestite and transsexual people and the "+" stands for plurality and all the other constructs that are added and represented in the acronym and those that are being included.

14 Flávio Malta Fleury and Pedro Augusto Gravatá Nicoli exemplify this situation: "After all, the capitalist system exploits, economically, these types of discrimination and oppression, in overlapping axes, perpetuating their existence in the world of work and in other dimensions of human life and society (COLLINS; BILGE, 2016). Capitalism economically exploits sexism, racism, homophobia, lesbophobia and transphobia when, for example, it preferentially employs women, black people, gays, lesbians, transvestites and transsexuals in call centers, more usually known as call centers, where the existence of these

profits from the overexploitation and precarization of these invisibilized lives (SILVA, 2008, p. 105).

According to Lilian Arruda: "[...] it becomes imperative the 'reinvention of the union movement' as a factor of work democratization and as a reinforcement of the 'collective voice'" (ARRUDA, 2004, p. 431). In this sense, a possible proposal for a greater inclusion and representation of these invisible subjects in the structure of the unions, so that they can consolidate themselves as fair social institutions that apply Rawls' two principles of justice, would be the adoption of quotas, especially in management and leadership positions. Especially, as it is found in a modern paradigm, with quotas for women, people of color and transsexuals, being a temporary measure to perform a form of reparation for the constant injustices that these subjects suffer daily in society and also within the unions.

From the moment that marginalized people gain a voice and a space within the unions, they begin to have strength and a support structure to change the reality in the scope of labor relations. According to Lucas Petroni and Raissa Ventura, in the text "Can the normative theory have any contribution in the fight against injustice?", the priority of society's concern should be in relation to those who are worse off and, consequently, need more attention (VENTURA; PETRONI, 2014). According to Flávio Malta Fleury and Pedro Augusto Gravatá Nicoli:

The individual and collective emancipation of male and female workers must permeate, necessarily, the confrontation of all forms of discrimination and oppression of which they are victims within the work environment, when they manage to access it, and outside it (FLEURY; NICOLI, 2018, p. 13).

One has the challenge of understanding the complex connections between gender, class, and race, fundamental components of inequalities, and what is perceived is that unions are reproductions of these inequalities. Such exclusionary behavior of unions deepens their crisis, as women, people of color, LGBT+ and other constantly marginalized groups stop identifying themselves with the institution, which does not represent them. Thus, the union loses more and more supporters and weakens itself. In the words of Adriana L. Saraiva Lamounier Rodrigues:

In general, the crisis of representativeness means the loss of the union's capacity to unite the workers' behaviors, and to represent the will of the worker collectivity. If all workers lose their identification with their own entity, the crisis turns into decline (RODRIGUES, 2018, p. 91).

Therefore, for the union movement to regain its breath and strength, it needs to build fairer and more democratic unions and, for that, it will be necessary an affirmative and reparatory action, to include socially excluded people in its internal structure.

The equal presence and performance of women, people of color and LGBT+ in unions is a project that will benefit society as a whole (ANTONINO, 2018), transforming the vicious cycle, discussed above, into a virtuous cycle of inclusion and plural participation of the heterogeneous working class, which seeks to end inequalities, respecting differences, within social institutions and society.

Therefore, a fair performance within the trade unions can have a direct implication on the reduction of injustices in the labor market. If the diversity of working subjects is contem-

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people is invisibilized and hidden from 'a consumer society that favors certain aesthetic standards' (VENCO, 2009, p. 170)" (FLEURY; NICOLI, 2018, p. 13).

plated in the union and labor market dynamics, with opportunities, occupation of prominent positions, enjoying a greater visibility, this will echo effects in several spheres of society, such as unemployment rates, schooling, violence, poverty, greater economic and purchasing power of the population, among others.

## 7 FINAL CONSIDERATIONS

In view of the above, without intending to finalize the discussion, it is clear that unions, which have a constitutional seat, are collective entities that represent workers, having their own statute, positions, rights and duties assigned to their members, and, therefore, are configured as social institutions in the view of John Rawls. According to Rawls, what contributes for a society to be fair is the proper functioning of its social institutions.

In this way, the current scenario of internal organization and performance of most unions shows that they are unfair, patriarchal and hierarchical social institutions, which rarely represent the heterogeneity of the working class, since they are mostly formed by white, cis men. In this way, unions end up reproducing the structural inequality that exists in society in their internal organization, excluding marginalized subjects, such as women, black people and transsexuals.

Likewise, the application of John Rawls' "Theory of Justice" and principles of justice, especially the second one (equality), in the union organization, despite being an extremely difficult task, can result in a more just and inclusive union structure, which welcomes and gives visibility to those workers who are marginalized by society and excluded from the labor market.

For that matter, in the sense of material equality, the application of gender, gender identity, and race quotas in the structure of the unions, especially in relation to positions of greater protagonism, can work as a way to give visibility to these agendas and marginalized sectors of society in the history of modernity, and also as a historical reparation to the unfair and harmful inequalities suffered by them.

Thus, it is understood that a fair and balanced performance inside the unions can have a direct impact on the dynamics of the labor market and on the treatment of labor relations for everyone who works, especially for those who are most marginalized and invisibilized by a patriarchal, prejudiced, and racist society.

In view of this, from the moment that these subjects gain protagonism within these social institutions and support from the numerous and heterogeneous working class, the market, being understood as a heterogeneous institution, will probably have to yield to their pressures and direct claims through constant and collective struggle, because the working class, articulated and with plural representation, is more numerous, in volume, strength of consumption and claims, than any other and, when united, attentive to social demands and solidified, has much more strength than it imagines, such as, for example, having spaces to achieve more conquests of rights, expansion of the protected subjects within the employment relationship.

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Recebido/Received: 23.03.2020.

Aprovado/Approved: 26.09. 2020.