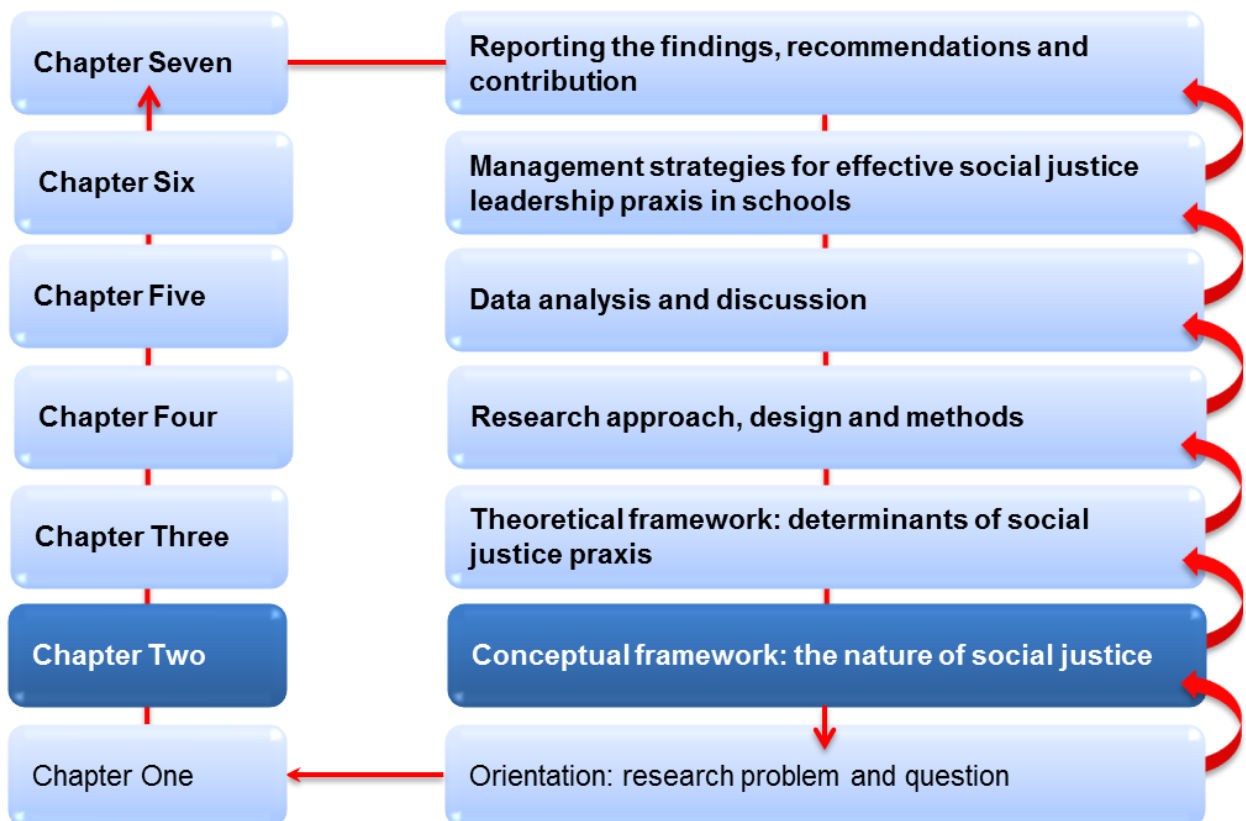

CHAPTER 2

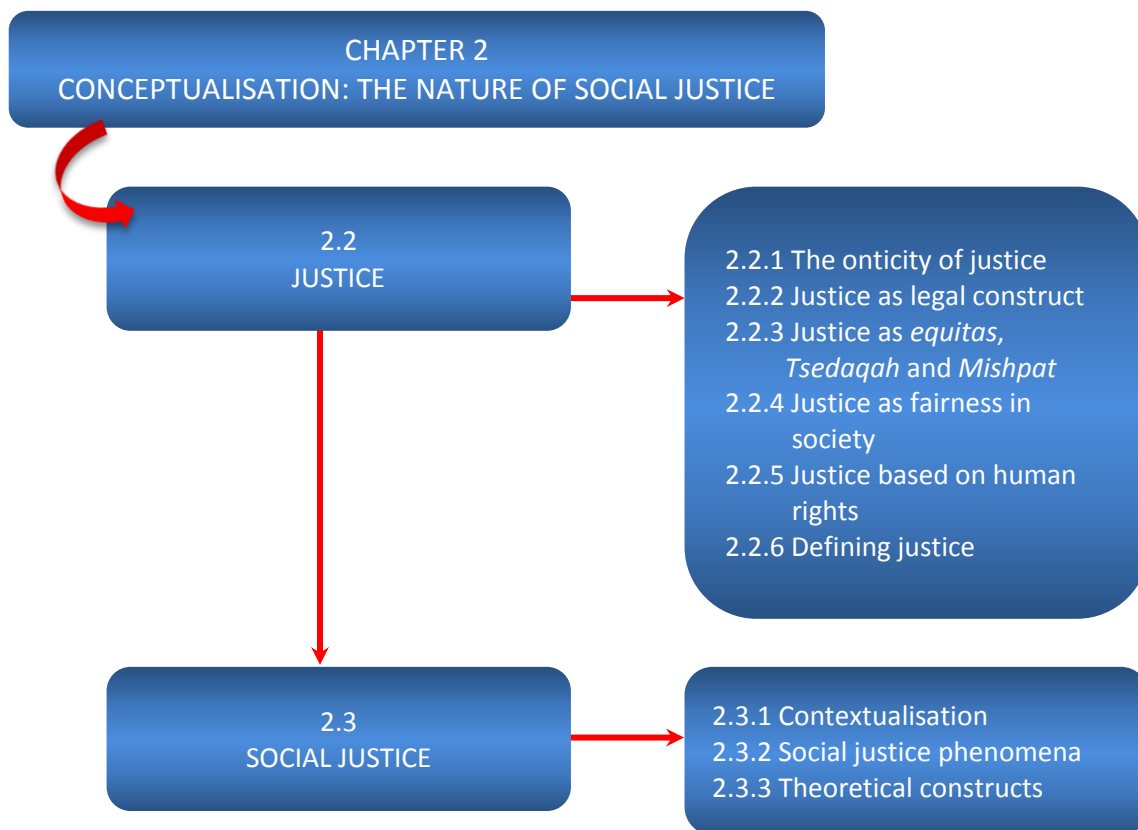
The nature of social justice



CHAPTER 2

LOGIC

Management strategies for effective social justice practice in schools



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2.1 INTRODUCTION

The focus of and problem statement to this research is trained on the intellectual question of how management strategies may assist in building a community of effective social justice praxis in education. The aim of Chapter Two is to determine, theoretically, the nature of social justice. The preliminary scholarly review (Chapter One) that informed the researcher's problem statement highlighted the theoretical and conceptual complexity of social justice. Not merely to state the obvious problematic of social justice, this introduction purports to pay attention to the role of social justice and social science research, to the subjective relation of justice to social justice as public communal justice operationalised in post-modern times, and lastly how the review of the scholarship on justice and on social justice speaks to this research question.

According to Mouton (2009) science, and specifically social science research, should become an *emancipatory* and *transformative* force in society. Mouton (2009) quotes Marx's statement (1845), in Feuerbach "*The philosophers have only interpreted the world, in various ways; the point is to change it.*" This slogan became important not only in the communist world and its proponents, but also in meta-theoretical debates on the nature of social science and of social justice. The value and an understanding of the theoretical constructs of human experience in repressive social contexts (society and systems) and the ideal of liberating people from oppression, is at the heart of social justice research (Creswell, 2009:9; Mertens, 2007:212-213).

The work of Rawls reveals that he almost always relates justice directly to something that is subject to it (i.e. basic social structures of society) (Strauss, 2009:215). Speaking of a democratic society of free and equal citizens, Rawls (1996:30) remarks that citizenship is subject to membership of a society. According to Rawls (1999e:394), the term social justice is related to a set of principles that provide a way of assigning rights and duties - both to individuals and organised communities - in the basic institutions of society. In a society as a system of fair social cooperation, individuals and institutions define the appropriate distribution of the benefits and burdens of social cooperation between free and equal persons. This resonates with the work of Dooyeweerd who argues that the internal political activities of the state should always be guided by the idea of public social justice (Strauss, 2009:569). It requires that the harmonising process should consist in weighing all the interests against each other, based upon recognition of the sphere-sovereignty of the various societal relationships. The fact that Strauss (2009:569) suggests that the correct English translation of the term social justice should be 'public communal justice,' combined with the fact that it is best realised in organised communities, *per se*, is epistemologically essential and requires particular

circumspection when thinking about the nature of social justice. In order to respect the notion that social justice can best be operationalised and realised in societal relationships (Strauss, 2009:569-570), a study of the nature of social justice is, in fact, a study of public, organised, communal justice as it is operationalised in the quality, or not, of the complexity of relational informal and formal interactions in society (Byrne, 1998:2).

Post-modern times and societies are characterised by uncertainty, disorder - if not chaos - indeterminacy and regression that are visible in phenomena of social injustice in the lived reality of education and society. As human beings we are multi-dimensionally involved in multiple contexts, relationships and systems (Mouton, 2001:138). These multiple contexts, relationships and systems are not only visible in informal relationships of individuals and groups, but also in the formal relational interactions of communicative institutions of individuals, communities and a globalised world. It is within this indeterminacy of a society that is seeking for social cohesion, that social justice or its counterpart manifests itself. Humankind are seen as relational beings to one another and are interrelational to subsystems and systems of society (Potgieter, 1980:1). Indeed, Potgieter (1980:1-2) postulates that this relational existence of humankind is inextricably linked with the political and cultural reality of an individual and a society: the principles according to which humankind 'become', humankind's 'ontogeny', are identical to the nascent principles of individual humankind. This process of becoming is indeterminate, indefinite and evolving as humankind's very existence is relational to his situatedness within specific societal and individual systems. This manifestation of social justice in the social world is found in external individual cognition that is recognisable in naming, conceptualising, and labelling categories of social justice phenomena that are social and historical creations of man (Creswell, 2009:54; De Vos *et al.*, 2005:29, 30; Nieuwenhuis, 2007:54). These 'labelling creations' will help to explain the nature of justice and of social justice phenomena as it manifests itself in society (Camp, 2001; Creswell, 2009:51) both as evolutionary and as revolutionary energy.

Therefore the review of the existing scholarship will be based on a hermeneutic-interpretive-phenomenological conceptualisation of social justice. The scholarly conceptualising and theorising on the complexity of justice and of social justice through the use of concepts and thematic classifications of social justice phenomena will search to provide a definition of its key constructs (Creswell, 2009:25; Mouton, 2001:93). Mouton (2001:9) asserts that this kind of classification is well suited for a research strategy that has leanings towards grounded theory (Chapter Four) to study the phenomenon of social justice, where the lived or pragmatic *umwelt* is important, rather than studying purely the review of theories. In so doing the scholarly review will position this study within the larger, ongoing dialogue in the literature and will contribute towards building social justice theory (Creswell, 2009:25; Mouton, 2001:93).

The ontological status of 'justice' is regarded in social science as concerned with the nature of being (Soanes & Stevenson, 2008:1000), whereas the modal predicate of 'social' in this research is understood to be related to the onticity of justice. As such, social justice does not have ontological status, which is the domain of justice. The logic of the modality of 'social justice' in which the predicate 'social' is an affirmation of the subject 'justice' is regarded as a qualification or condition of 'justice' (Soanes & Stevenson, 2008:918, 1139), as it becomes visible in relational interactions in society and organised institutions. Therefore in search of an understanding of the nature of social justice in society and individual man, the theories of justice (§2.2) and the *doppelgänger* theories of social justice (§2.3) will be extrapolated. The focus will be on operational functionalities of justice and social justice; its cosmology (structure, form, outward appearance and elements), its ontology (contents, essential features) and, finally, its social, juridical and axiological rationale and objectives.

2.2 JUSTICE

Reality is regarded as a continuous cycle of becoming, a cyclical transformation or recreation, and from this continuous process, man and mankind are part of an *ad infinitum* process of creating and the recreation (Potgieter, 1980:2) of justice. He argues that becoming transformed implies ordered or well-organised progress or transformation, whereas unordered, disorganised or unstructured events typify degeneration and chaos. But, argues Byrne (1998:5, 7), chaos is the precursor of order, not its antithesis and is useful in bringing understanding of the things we are trying to understand.

In a discussion on justice, the notion of becoming implies a pedagogy of becoming positively transformed or what Potgieter (1980:11) calls "ectropy". Ectropy is understood to refer to the study of the transformations of a physical system, related to morphic order or generation in contrast to disorder in ordinary spaces such as human society and its institutions or systems (Encyclopaedia of human thermodynamics, 2010). It is used as an antonym to the concept "entropy", in the case of living structures, and can be viewed as a hypothetical organising force to bring about transformation. Entropy is derived from the science of physics where it is used as a thermodynamic quantity representing the unavailability of a system's thermal energy for conversion into mechanical work, often interpreted as the degree of systemic disorder or randomness, originating from $\Delta S = \frac{Q}{T}$ + *Gk tropē* 'transformation' (Soanes & Stevenson, 2008:477). Chaos theory, likewise, is derived from the physical and mathematical sciences (Rosenhead, 1998; Valle, 2000), using complicated formulas and subjective conception to investigate the possibilities of hidden order in a seemingly chaotic state of the objective reality. Chaos theory also uses concepts such "being", "becoming", "interconnectedness", and "transformation" (Smuts, 2005:iii) that could be applied by the social science researcher to solve problems through the development of new perspectives, scientific thought and paradigm shifts.

Where the purpose of this research is, is to understand the theoretical constructs of human experience of justice and of social justice in repressive social contexts and the ideal of transforming and liberating people from oppression, Potgieter's (1980:2) ectropy-exemplary (positive transformational) method of positively becoming transformed is apt in an attempt to define justice ontologically and of social justice as modality of justice. In seeking **ectropy**⁺ the researcher seeks not merely change but positively becoming, changing, transforming, whereas **atrophy**⁰ or stability is the parameter against which both (ectropy and entropy) are to be measured and is to be understood as an artificial perimeter or norm man has created to determine whether ectropy is achieved. **Entropy**⁻ or negative becoming (chaos) means the degree of disorder or randomness in a system. Rosenhead (1998) postulates that chaos is a particular mode of behaviour over time, evident in complex systems in which predictability is dependent on certain conditions, that if it changes, it will lead to unpredictability of behaviour and unstable systems—chaotic behaviour.

In this research the researcher seeks to understand 'intologically' (Potgieter, 1980:5) from within the reality of justice (and of social justice) as triad. Intologically is derived at from the Latin *intus*, looking from 'within' and from the Greek *logikos*, reasoning conducted or assessed according to strict principles of validity (Soanes & Stevenson, 2008:746, 838). Although the English translation of "*drie-eenheid*" is 'trinity', the English term 'triad' is preferred in this research context where triad means a group or set of three connected people or things (Soanes & Stevenson, 2008:1538). Potgieter (1980:5) postulates that reality is evident in a triad of Purpose (P), Content (C) and Form (F) and only when this triad functions effectively, will the purpose (of justice and of social justice) be realised or fulfilled (Figure 2.1).

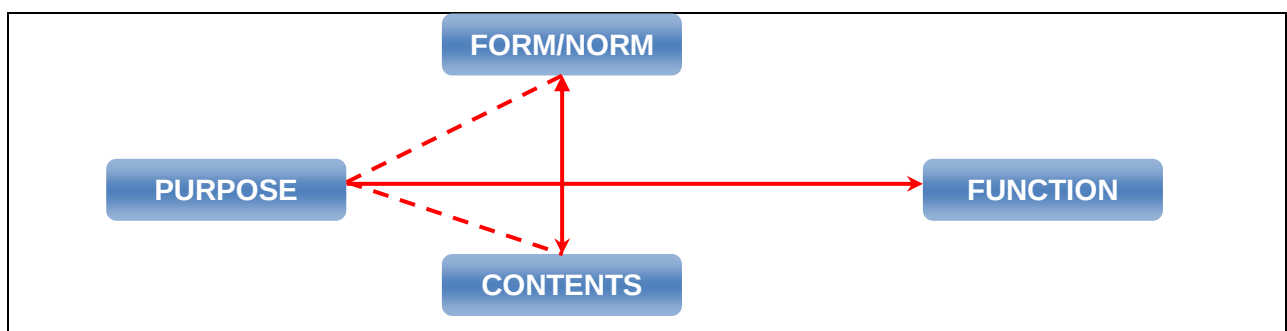


FIGURE 2.1: Principles of three modes of relationships (Miller, 1999; Potgieter, 1980)

As the researcher's endeavour is to find 'ectropy⁺,' and not merely change, it is also necessary to understand 'entropy⁻' as antitheses of one-another. Potgieter (1980:2-3) views 'atrophy⁰' as the parameter, rule, or border, or norm against which both ectropy and atropy are to be evaluated against, in order to determine whether ectropy has been accomplished. Parameter is a measurable or quantifiable characteristic of a system, fixed, or a limit or boundary which defines the scope of a particular process or activity from the Greek *para*- 'beside' + *metron* 'measure'. Rule in its basic form means 'a regulation or principle governing conduct or

procedure within a particular area of activity,' 'a code of practice and discipline' and '*the normal or customary state of things*' (Soanes & Stevenson, 2008:1038, 1257).

An occurrence or an act of justice is either effective or ineffective, that is, it is ectropical⁺ or entropical⁻. The degree to which an act or praxis of justice and social justice is ectropical or entropical will be determined in Chapter Four where the accomplishment of social justice praxis (function) in education will be evaluated. Whereas theory offers possibilities or variants of the ectropical state, positively becoming just (and socially just) from functional situations, examples both positive and negative will be provided in Chapter Four to re-inform a theory of justice and of social justice. The norms or atrophy⁰ for justice and social justice are to be found in the scholarly review that follows. It needs though, to be emphasised that these scholarly examples/norms of justice and of social justice are encapsulated in time and space and that time and time again there will be other emphases of purpose, content, form and norms (Potgieter, 1980:3).

As such the following discussion on the onticity of the law (§2.2.1) will be about justice as a legal construct (§2.2.2) and as having the meaning of justice as *equitas*, as *Tsedaqah* and as *Mishpat* (§2.2.3). Justice as human rights endeavour (§2.2.4), as virtue and as fairness (§2.2.5) is evident in societies. The theoretical conceptualisation of justice will be synthesised (§2.2.6), evaluated (§2.2.7) and defined (§2.2.8).

2.2.1 The onticity of justice

Taljaard (1976:47-68), as well as Du Plessis (1978:699), in their discussion of the onticity of the law, build their arguments on their belief in the sovereignty and the justice of God over creation and over every aspect of human activity. The scope of this chapter is to focus on the essence of justice and of social justice from a social constructivist and social transformative-emancipatory worldview, and therefore Du Plessis' and Taljaard's views on the onticity of justice is relevant to enhance understanding with regard to the onticity of the law - *lex* - that is visible to the eye of reason (fair), concretised laws of creation and of humankind and humankind's activities. This will entail that "one has to inquire into the laws to which the things are subjected but we should not reduce the law to the thing subjected to the law" (Taljaard, 1976:45-46). In a social constructivist and social transformative-emancipatory worldview, reality of the law and justice are investigated from the premise that the law and justice are "absolute things" that cannot be relativised. This worldview of Plato is known as Realism derived from the Latin concept '*res*' that is a nominative singular Latin noun for a substantive or concrete 'thing': the law/justice and viewed as a noun, it has ontic status (Taljaard, 1976:42, 43).

Applied to this research the onticity of the law - *lex/justice* - is valid by virtue of its being posited in the "peculiarity of the diversified kinds in creative reality" (Taljaard, 1976:49). He continues to argue that only the law has legal force, subjecting all of creation to its own specific law that

gives humankind peculiarity and diversity of existence (Taljaard, 1976:47, 49). He calls this legal force to which entities are subjected, “thing-laws” that include everything: humankind, communal institutions or societal relationships. He furthermore argues around concepts of ‘natural’, ‘cultural’ and ‘norm’ laws. These philosophical distinctions are important for philosophers, but as this research is not primarily a philosophical account of the law, they will not be expanded on. What is nevertheless of importance for this study is his claim that object-laws allow the researcher to distinguish between the entity justice, and its qualities, social justice. The qualities of social justice can never be separated from the law (justice) as entity because they are qualities of the entity “and never exist on their own as separate realities” (Taljaard, 1976:53-54). The created reality - *umwelt* - is the bearer of social qualities and exists in and through humankind and his created reality.

Taljaard (1976:55-59) quotes from Dooyeweerd’s and Stoker’s philosophy on the existence of man as “original indissoluble interrelation[al]”, an inner coherence or inter-connectedness between different modalities: linguistic, the aspect of social interaction, economic, juristic, moral and modalities of faith. Stoker makes a distinction between natural and norm laws on the one hand, and general laws, type laws and unique “*einmalige*” laws on the other. Stoker’s notion of modal laws, structural laws, laws valid for dynamical events and laws to which values are subjected or “laws valid for principles, facts and values” are regarded as positivised, man-made law (Taljaard, 1976:59-61). The positivised laws are regarded as valid, but do not possess the same stability of ontic laws.

Having established the onticity of law/justice, the ensuing discussion will focus on justice as it is portrayed as a legal construct of government and society.

2.2.2 Justice as legal construct

Justice is the nucleus, the genesis, of the concept social justice that has, according to Miller (1999:x), “always been, and must always be, a critical idea”, an idea that calls for reformation of our institutions and educational praxis “in the name of greater fairness.” A theory of justice is primarily put forward because of uncertainty and disagreement on what justice requires from each one of us as citizens (Miller, 1999:21), as has been the search of ancient humankind. Plato was, according to Taljaard (1976:42-43), the first to realise that the law possesses a reality of its own: an ontic law, possessing onticity and as such received the character of absolute things, known as realism, to know in its essence or fundamental nature. Taljaard (1976:47) posits that “only the law has legal force” or ontic status, and that the relationship, or what Miller calls “associational relationship,” is determined by man’s obedience or disobedience, and the realisation (or not) of values, good and bad.

Justice is in a positivist sense known as the judicial positivism, a juristic, legalised term, an act of the judiciary, but justice is more than an act, it is also an evaluative term, a qualifier or an

attributive descriptor of the act of justice. Du Plessis (1978:507) purports that the core of what he calls juridical is retaliation. Secondly, justice is regarded as a virtue (Du Plessis, 1978:397; Kelsen, 2000:3; Miller, 1999:21) that determines the degree to which the act of justice is just or unjust, as well as the degree of restitution or restoration sought and awarded. It guides order in social relationships, what humankind should rightly do to fellow-humans, hoping that a mutual agreement on what justice often intuitively demands of all of us meet legitimate claims. Since ancient times the concept 'justice' has evoked debates, wars and tears, according to Kelsen (2000:2), who continues to argue that since Plato, Christ, and Kant it remains as unanswered and undeterminable as it ever was. Kelsen (2000:3) defines justice as primarily a possible, but not a necessary quality, or requisite of a social order that regulates man's relationships and determines man's social happiness. This happiness of a social order should be about happiness in an objective-collective sense. Du Plessis (1978:469, 470, 654) views justice as institutional or the bringing about of order and as 'doing' (Afrikaans: *ordenend*) justice unto fellow man in and through a formal institution, known as institutional justice. He argues that as such justice is regarded as rational, differential and consisting of certain prerequisites.

According to Onuoha (2007:67) there are three basic premises or schools of thought on justice. The first conceives justice as that which the law says, but this, argues Onuoha, raises the question of just and unjust laws and the legitimacy of the government or the organisation (school rules in the case of schools) that promulgate legislation and its regulative implementation. Secondly, justice is whatever a society conceives as justice; justice is what justice is, which is known as the evolutionist or moral school, who believe that justice is defined by the collective will and decisions of a society, one that is forever in motion, changing and evolving over time. The third school is the naturalist school who argue that "human beings are God's creations" and that humankind, as creations of God, should not be violated. Activists for human rights align themselves closely with this school.

Miller (1999:21-23) argues a case for justice as being substantive *and* procedural. A theory of substantive justice can be viewed as:

- fundamentally requiring that humankind treat each other as equals
- what humankind would agree to in advance of knowing their own stake in the decision to be reached
- a form of scepticism that implies that no general theory of justice has any claim to objectivity but is based on emotional or conventional reasoning. Conventionalists are inclined to argue that justice is a fluctuation of a specific people and context
- being imposed by powerful individuals or classes of individuals for the purpose of maintaining social relations that will enhance their position (Plato's "justice is the interest of the stronger"; Marx's "every notion of justice is an idealised reflection of the prevailing

set of relations of production, serving to secure acquiescence in those relations to the benefit of the economically dominant class”; Nietzsche’s “wherever justice is practiced and maintained, we see a stronger power intent on finding means to regulate the senseless raging of rancour among its weaker subordinates”)

- essentially a fragmentary notion, one whose meanings shifts among the many practices or language games in which it plays a part, and of which it is therefore impossible to give a valid general account

It is evident from these differentiated accounts on what constitutes substantive justice that no one definition will suffice. But, argues Miller (1999:23-25), if substantive justice cannot be brought under one definition, then at least procedural justice, of weighing and counter-weighing claims, would reflect just procedures in preventing destructive conflict. The fact of the matter is that neither substantive nor procedural justice solely can describe justice, as both, substantive and procedural, are inter-dependent. Moreover justice cannot be understood if the practical principles, or what Miller (1999:25) calls “plurality of principles of justice, each having a defined area of application,” do not guide those beliefs. He argues that the range of benefits and burdens distributed justly could be enhanced by categorising them in such a manner that each category carries with it its own principle of distribution and proposes a different kind of “pluralism about justice” (Miller, 1999:25-23). Human beings stand in differential relationships with one another or what he calls “modes of human relationship”. In an attempt to understand which demands of justice are made, the point of departure should be an understanding of the particular nature (mode) of a specific relationship, albeit mostly complex and multi-faceted. These multi-faceted modalities of human relationships are evident in solidaristic community, instrumental association and citizenship (Miller, 1999:26-32).

As a legal term, justice is evident in solidaristic communities where a common identity is shared within a relatively stable group with a common ethos and whose actions are guided by common practices and a common culture. According to Miller (1999:27-29) the substantive “principle of justice is distribution according to need,” shared proportionally. ‘Need’ typifies a situation where basic necessities are ill-distributed and where a person or group of associates are in danger of being harmed and/or that a person’s ability to function optimally is being impeded, and it differentiates between needs and wants or preferences (Miller, 1999:207-212). Instrumental association is underpinned by a utilitarian relationship of economic collaboration where the principle of justice is distribution according to desert-sharing proportionally according to man’s contribution and not merely because of his efforts or attributes. Mankind’s efforts are rewarded according to his or her performance with the assumption that superior performance equates with superior recognition (Miller, 1999:134, 141). The third associative mode, citizenship, is based on interrelational associations as fellow citizens guided by the distributive principle of equality. Equality relates to the social ideal of attempting to regard and treat all citizens as

equals where benefits are or should be distributed equally. Justice as virtue should be understood as “the set and constant purpose which gives to every man his due” (Miller, 1999:30, 33, 232).

Up till now the ontic law and the different conceptions of justice were discussed. Following will be a discussion of justice and society as it manifests in society as *equitas*, *Tsedaqah* and *Mishpat*.

2.2.3 Justice as *equitas*, *Tsedaqah* and *Mishpat*

As legalised and decidedly ambiguous term, justice is derived from the Latin word *equitas* that means equal and juristic fairness (Shoho *et al.*, 2005:48). Justice, in its legal and strictest form, is defined as just behaviour or treatment that establishes the degree of the quality of being just, a quality that reflects a semantic value that refers to the administration of the law or authority (Soanes & Stevenson, 2008:769). These authorities are government institutions that are formally responsible for the maintenance of justice and legal action, as performed by the judiciary. Justice as codified law is thus a determinant of the quality, just or unjust, of relationships with one another and with our physical and technological environment, of our social world. Justice determines whether those relationships bring harmony or conflict, abundance or waste, human development or degradation, a culture of life or a culture of death, equality or fairness (Kurland, 1997:iii). According to Garforth (1979:168-169), justice is the idea of legal limitation and constraint or punitive sanction, at heart the notions of right versus wrong.

One of the key features of a modern human society is the notion of justice as a legal construct that is morally right, fair (Rawls, 1999e:48) and efficient (Kurland, 1997:iii). Efficiency is added as a requirement of the ‘design quality’ of formal legislation and its enactment. As legal action, justice as fairness and equality also includes attributive descriptors such as moral rightness, virtuousness, a rightness based on ethics, rationality, law, and equity.

As constitutional values ‘equality’ and ‘fairness’ are concurrently juxtaposed in the founding provisions of the South African Constitution (South Africa, 1996a). Section 9 specifically deals with the human right to equality as it is mirrored in the concept of ‘unfairness’ in an attempt to create a society that is morally just and fair. Rawls (1971:5) developed the notion of justice being the ‘first virtue of social institutions’, as it provides a way of assigning rights and duties and of distributing rewards and obligations in relation to social cooperation towards a fairer, less oppressive society, shared equally by the few as well as the many. These principles operate primarily on macro-institutional and -organisational levels (Rawls, 1999f:233-235).

The concept justice is derived from the Hebrew words *s-d-q* (*Tsedaqah*) and *š-p-t* (*Mishpat*). *Tsedaqah* is ‘justice *an sich*,’ i.e. general justice based on the religious obligation to perform charity and philanthropic acts towards the other. *Mishpat* is regarded as ‘the law’ as being particular, specific to institutional, formal justice. Justice as *Mishpat* has a nuanced

interpretation as it relates justice to a specific norm or value (Du Plessis, 1978:180), such as fairness of acts. It also embraces the Hebrew word '*chesed*' (חֶסֶד), that is translated as "deeds of kindness" (Snaith, 1951) and '*Tikkun olam*', meaning "repairing the world" (Jacobs, 2007).

Moreover, according to Koopman (2005:134-135), justice should include 'compassionate justice' that is based on two Hebrew concepts *Mishpat* and *Tsedakah*, from theology that may assist in the discourse in reaching a deeper understanding of justice. *Mishpat* is forensic justice enforced through legal apparatuses of the state and its legal procedures, procedures that should include human rights deliberation. Koopman (2005:134-135) expands the attributive descriptors of justice to include *Tsedakah* - sacrifice - that is necessary to transform people into just human beings who will make sacrifices for the sake of the other. Compassionate justice - *Tsedakah* - includes legal justice - *Mishpat* - in a comprehensive and cooperative "ethos of compassion and sacrifice" that will bring about a life of justice and dignity. This cooperative action and the inclusion of sacrifice as part of the discourse about social and economic justice might bring about the desired effects in a country marred by injustice on so many levels, including schools that will enhance any political, economic and legal intervention that can result in stability.

These attributive descriptors of justice will be central to this research, because they are concepts that underpin the relationships between human beings, and the quality of those relationships and the interactions of such relationships are influenced by an individual's regard for these notions of justice that are not confined to the four walls of the judiciary but are expanded into daily encounters of humankind with each other. These encounters are paramount in a country that is judicially and socially embedded in a democratic and constitutional human rights culture manifesting in justice as fairness in society.

2.2.4 Justice as fairness in society

Rawls (1971:14) presupposes that an ideal society is assumed to be free and equal, that embraces personal and political liberties and is one that has access to equal opportunities, both for the advantaged and the disadvantaged, a society founded on the principles of fairness and cooperation. Almost thirty years later, Rawls states that *A Theory of Justice* presents structural features that enable and empower those who make judgements of justice based on the "most appropriate moral basis for a democratic society" (Rawls, 1999f:233). For Rawls (1999c:286), justice provides a moral frame for modern democracy to come to full expression. It governs the conduct of people in relation to each other that requires individuals with highly developed moral sensibilities who are able to prioritise and make judgements on that which is right over that which is good (Soudien, 2006:2).

Judgements express an underlying valuation of interactions in human society: the person, the relations between persons, the general structure of a society and the means of social

cooperation within a specific society. A Rawlsian society is a society that has a sense of justice with fundamental and mutual inclusive aims and interests for the institutions of a particular society. This society exercises the right to equal respect and consideration in establishing the principles that govern the basic structure of such a society (Rawls, 1999f:233). Justice in a just society provides a way of assigning rights and duties and of distributing rewards and obligations in relation to social cooperation. Social cooperation is also about a movement towards a fairer, less oppressive society, shared equally by the few as well as the many. These principles operate primarily on macro-institutional and -organisational levels (Rawls, 1999f:233-235).

John Rawls conceptualises justice from the perspective that persons are free and equal (Garrett, 2005) based on man's possession of two moral powers, the capacity for a sense of justice and the capacity for a conception of the good. A sense of justice is man's capacity to understand, to apply, and to act from a common public conception of justice that displays characteristics of fairness and of cooperation.

A well-ordered society is one that understands and accepts a general conceptualisation of justice (Figure 2.1):

These shared principles entail: (1) adherence and (2) satisfaction with these principles of justice that are (3) founded on rational and reasonable beliefs. A well-ordered society is one where (4) a sense of effective justice prevails, one where (5) fundamentally inclusive aims and interests exist, and (6) everybody has a right to equal respect and consideration in establishing and generating (7) effective support for such a sense of justice. The notion of a well-ordered society also embodies the circumstances under which the principles of justice are operationalised within a well-ordered society: (8) moderate scarcity of goods, (9) diversity of interests, ends and ideas, and (10) basic institutions [such as schools] that are self-sufficient, productive and cooperative for the benefit and mutual goodness of all.

A well-ordered society		
1. Accept the same principles/conceptions of justice. 2. Basic social institutions and their structural organisation of these principles of justice are commonly accepted and satisfactory. 3. Understanding of justice as being founded on rational and reasonable beliefs established over time. 4. Having a sense of justice that is normally effective. 5. Having fundamental mutually inclusive aims and interests for their institutions. 6. Having the right to equal respect and consideration in establishing the principles that govern the basic structure of their society. 7. Basic social institutions generate an effective supporting sense of justice. 8. Conditions of moderate scarcity of goods exist. 9. There is a divergence of fundamental interests and ends, and a variety of opposing and incompatible basic beliefs. 10. The schema of basic institutions is more or less self-sufficient and productive schemes of social cooperation for the mutual good are well established.	Specify the notion of a well-ordered society ((1)-(7))	Characterises publicity ((1)-(3)) The notion of free and equal moral persons, stability ((4)-(7)) Characterises the circumstances of justice ((8)-(10))
Set of principles required for adjudicating between social arrangements that shape this difference of advantages:		
11. The role of the principles of justice (the public conception) is to confer rights and duties in the basic structure of society and to specify the manner in which it is appropriate for institutions to influence the overall distribution of benefits and responsibilities. 12. The members of a well-ordered society take the basic structure of society (social institutions and their arrangement into one scheme) as the primary subject of justice.		Describe the role and subject of justice ((11)-(12))

TABLE 2.1: Rawls's notion of a well-ordered society (Rawls, 1999f:233-236)

A well-ordered society exists under extremely complicated conditions and circumstances. The notion of a well-ordered society (1 to 7 above) *and* the circumstances of operationalised justice (8 to 10 above) rely on the principle of justice, i.e. the publicly accepted understanding of justice. Members of a well-ordered society confer rights and duties, and specify the appropriate manner for institutions to influence the overall distribution of benefits and responsibilities (11).

Lastly, the members of a well-ordered society take the basic structure of society as the primary subject of justice. Rawls's (1999f:233) notion of a "well-ordered society" is one that is "self-regulative" in its understanding of "a public conception of justice." To validate the use of a visual construct of Rawls's model North (2006:509) contends that visual models, like theories, are used to simplify the messy realms of education, enhancing understanding and initiating new questions and discussions that words alone are not able to.

Philosophers critique Rawls's theory of justice. Sandel and McIntyre argue that citizens cannot be projected in identity forms that have different ideas of what is good and desirable and what not, that there is one general idea of good and therefore Rawls's arguments are metaphysically flawed (Soudien, 2006). A person is confined to his/her ends and means, and Sandel and McIntyre continue to argue there is no neutral or common accepted notion of what is good. In answering some of these criticisms Rawls (1999b:614) affirms that *A Theory of Justice* is about structural features which have the highest possibility of justice to give the most appropriate moral basis for a democratic society.

2.2.5 Justice based on human rights

The two primary attributive descriptors of justice - equality and fairness - form the bedrock of the Universal Declaration of Human Rights (Volodin, 2008:42) and of the South African Constitution (South Africa, 1996a) and her democracy. The Constitution recognises the inherent dignity, equality and inalienable rights of all humankind. Human rights are the foundation of freedom, justice and peace between all nations of the world, and contempt thereof is visible in barbarous acts that have outraged the conscience of mankind. Human rights proponents embrace human dignity that all human beings are equally entitled to and ought to be protected through legislation and in social institutions and organisations of a well-ordered, fair and just society.

Other scholars understand justice as a human rights concept to be an act of virtue and an act of fairness (Dotger & Theoharis, 2008:3; Hursthouse, 2007:45-46; Loots, 2005:176; Miller, 1999:21; Seedat *et al.*, 2010:22; Smit, 2005:235). Rawls (1999e:48) warns that justice in its customary sense is but one of the many virtues espoused by social institutions. He continues to argue that justice is not to be confused with an all-inclusive vision of a good society, "it is only one part of such a conception." Kurland (1997:vi) and Ferree (1997:5) adopt the Aristotelian concept of legal justice as virtue where the just man will strive to do or accomplish that which is regarded as good and just by obeying the law based on human rights. Miller (1999:21) contends that justice as a virtue determines the quality of relationships and what rightly should be due others. He argues that justice can be defined from a viewpoint of scepticism: claiming that justice simply expresses the emotions of the person making them, and that beliefs about justice are purely conventional, reflecting customs and practices of a particular society. Justice is what is established in legislation and imposed by those in power or classes of individuals to maintain social relations to their best interest (Miller, 1999:22-23). Justice as fairness is intended as a

political conceptualisation of justice, a moral construct for a specific kind of institution, be it political, social or economic. Rawls (1999e:392) proposes the concept of justice as fairness as an alternative to the dominant utilitarianism of traditional political thought. He argues that political controversy is the force that brings fundamental human rights questions to the fore to attain stability, equality and liberty.

With regard to the attributive descriptors 'morally right and fair' the publication of Rawls's *A Theory of Justice* in 1971 brought a renewed emphasis on normative political philosophy and theory (Garrett, 2005; Haworth, 2004:237; Kymlicka, 1990:9; Lessnoff, 1999:229). This moral basis of justice is, according to Brand (2005:22), "regulatory", "instrumentalised" law, aimed not at conflict resolution as traditionally was the case, but at the regulation and guidance to give effect to equal social provisioning programmes and goals of the state. The modern nation state's role is now, more than ever, a role that is enacting social constructs of justice of which the tenets are political (legal) and social in accordance with a human rights culture and democracy. Hursthouse (2007:45) refers to "virtue ethics" as a technical term that modern Western analytical moral philosophy focuses on. Rawls (1999e:389) sees virtue and virtue ethics as a political notion and as such a person's moral views of fellow citizens are shaped by an existing political society. Rawls's (1999f:233) notion of a "well ordered society" is one that is "self-regulative" in its understanding of justice (Table 2.1). He describes political conceptualisations of justice as a moral normative understanding of specific political, social, and economic institutions that fit society's basic structures into one system of social cooperation carried from one generation to the next (Rawls, 1996:11-14).

Taljaard (1976:61) contends that norms and principles are inherently attached to laws and that they reveal the same characteristics as found in legislation. Norms and principles are valid as they are dependent upon human development. These normative interactions in the building of cultures and society are concluded in obedience of the law and resultant behaviour should correspond to a standard set of norms based on specific ways of community life regarded as normal and acceptable behaviour. Taljaard (1976:62) believes that principles are dependent on one's knowledge of the ontic laws (§2.2.1).

A human rights-based approach to justice is one that espouses justice in realising the Constitutional right to basic education (s.29). Thro (2012) pleads for a second Constitutional moment after 1996 that would involve a wholesale invalidation of the education system or simply a demand for dramatic change to meet the legal imperatives of the South African Constitution. This will entail that before the Constitutional Court can enforce the Constitution with regard to the right to education, this Court would have to determine what the Constitution means in educational contexts. He suggests a judicial review of the actions of government and annulment of those actions that are contrary to the human rights foundation of the Constitution.

He argues that a democratic Constitution is the ultimate expression of the will of the people; it defines a way of life, and defines what a nation is and that which the nation hopes for. Justice is served by judges who interpret the Constitution to ensure that elected officials do not transgress the people's fundamental law and therefore the original meaning of the Constitutional words, not the original intent, is the touchstone when interpreting human rights and the right to education. Thro (2012) argues that human rights and justice should consider the idea that Parliament (and by extension education departments) has a fiduciary duty, particularly where there is a positive obligation to pursue certain policy goals. He furthermore suggests that "citizens may enforce this duty by convincing the Constitutional Court that Parliament has acted insufficiently, either by not legislating at all ... or by legislating insufficiently well (and thereby violating the duty of due care)." The Constitutional Court has therefore the obligation to assess this Constitutional fiduciary duty by means of enquiring into the extent or not of the state's achievements of the constitutionally prescribed purpose of human rights and specifically the right to education.

In Eastern philosophy Buddhism recognises virtues as perfections of character, as forbearance, self-restraint, contentment, generosity, mildness, meditation, compassion, courage and wisdom. Confucianism also focuses on the last three virtues as character traits that are typical of the good or noble person, the good or worthwhile life but add humanity, benevolence, righteousness, courage, trustworthiness, filial piety and propriety (Hursthouse, 2007:45-46). Virtue ethics is not solely the domain of Plato or Aristotle but also that of Stoicism and Epicureanism, of Christianity and specifically that of Aquinas.

2.2.6 Defining justice

For Du Plessis (1978:649-653) justice is individualised actions towards fellow men. He sees justice as a religious direction of man's 'heart' that is operationalised and becomes visible in his/her actions towards one's fellow mankind. This form of justice is based on love, determining the attitude of man's heart that becomes visible in man's actions. He concludes that justice is an attitude of the heart and that it is actualised in concrete-formal acts of justice in legal institutions or formal structures. Du Plessis (1978:507) warns that it is not possible to determine the essence, the nucleus of the juridical and social experience of justice and therefore it is not definable. In the same vein, Miller (1999:42) refers to Törnblom's belief that an attempt to define justice is a hopeless and pompous task, beyond the capacity of any scientific analysis, referring to past research that has convincingly shown that the notion of justice seems to mean different things to different people under differing circumstance.

Notwithstanding this warning, for the purpose of this thesis it is important to establish what justice in relation to social justice is.

The onticity of the law/justice is viewed as having the characteristic of absolute things embodied in legal and social constructs that are validated by virtue of ontic-formal law. Law/justice has a

reality of its own: as legal construct justice is formal, forensic justice enforced through law-making and law-enactment procedures of the state. Concurrently justice as a social construct is found in a well-ordered democratic society and forms the foundation of formal and informal relationships underpinned by human values of justness, fairness, human dignity, equality and equity, and embodied in human virtues of perfection of character in compassion towards the other.

A synthesis of the discussion on justice follows next.

2.2.7 Synthesis

From the aforementioned discussion on justice, the onticity of the concept law/justice was established as the Latin noun '*res/thing*' describing a substantive or concrete entity. Justice is a legal and evaluative concept, a legal and human rights concept, visible in and through actions (often also visible in actions of inactions as injustices) of virtue and in its principles in societies.

- Justice as legal concept is (§2.2.2):
 - A juristic, legalised term, enacted by the judiciary
 - An evaluative term, a qualifier of the act of justice regarded as virtue; is possible as a regulative quality, a requisite of a social order that determines humankind's social happiness.
- Justice as *Equitas*, *Tsedaqah* and *Mishpat* (§2.2.3):
 - *Equitas* is acts that are equal and fair, just and equitable, recognising the right to human dignity and equality
 - *Tsedaqah* is 'justice *an sich*' i.e. general justice based on the religious obligation to perform charity and philanthropic acts towards the other
 - *Mishpat* is forensic justice enforced by formal legal apparatuses and procedures of the state, based on morally right attributes, fairness and efficiency in a well-ordered society based on mutual respect
 - *Equitas*, *Tsedaqah* and *Mishpat* are equal, just legal acts determining formal rights, rewards and punishments which a society conceives as justice, is what justice is.
- Justice as fairness (§2.2.4):
 - presents structural features to enable and empower leaders to make judgements of justice based on the most appropriate moral basis for a democratic society,
 - provides a moral frame for modern democracy to come to full expression,

- governs the conduct of people in relation to each other that requires individuals with highly developed moral sensibilities who are able to prioritise and make judgements on that which is right over that which is good, and
- constitutes a well-ordered society (Figure 2.1) that is one that understands and accepts a general conceptualisation of justice that entails adherence and satisfaction to principles of justice that are founded on rational and reasonable beliefs.
- Justice as a human rights concept (§2.2.5) is enacted by:
 - the Constitution that recognises the inherent dignity, equality and inalienable rights of mankind
 - freedom, justice and peace between nations of the world because contempt thereof is visible in inhumane acts
 - a human rights-based approach to justice, and the right to education which espouses justice in realising the Constitutional right to basic education by determining what the Constitution means in educational contexts
 - a judicial review by the Constitutional Court of the actions of government and her officials, and if found to be negligent would invalidate those actions that are contrary to the human rights foundation of the Constitution
 - human rights proponents of justice which should consider the idea that Parliament (education departments) has a fiduciary duty towards the positive obligation to pursue the right to basic education
 - citizens who may enforce this fiduciary duty by convincing the Constitutional Court that Parliament has acted insufficiently, by means of an enquiry into the extent or not of the state's achievements of the constitutionally legislated purpose of human rights and the right to education
 - public officials in courts of justice who conform to (or should conform to) moral rightness in action and display an attitude of being righteous
 - righteous citizens created by God that base relationships on mutual respect and regard for justice, and therefore should not be violated
 - institutions and organisations that demand all that is necessary for the common good and who pass judgements on that which is right over that which is good
 - being just and of justness expressing ethical acceptance of rulings (either policy or court rulings) of a political state and a society

- being fair as a moral construct that is visible in institutions where values of fairness, equality and liberty permeate the institution (or not) and thus provide a moral and structural frame for judgements
- virtue of perfection of character found in Eastern philosophy, such as forbearance, self-restraint, contentment, generosity, mildness, meditation, and compassion.
- Justice is reliant on:
 - political institutions of a constitutional regime and the public traditions of their interpretation, who have the power to make human society conform to the norms of justice vested in man's institutions and organisations, not in isolated individuals
 - fundamental and mutually inclusive aims and interests for the institutions of a particular society that is viewed as a well-ordered society that understands and accepts a public conception of justice, the right to equal respect and consideration
 - a just way of assigning rights and duties and of distributing rewards and obligations in relation to social cooperation in institutions towards a fairer, less oppressive society, shared equally by the few as well as the many.

Following is an evaluation of the theory of justice.

2.2.8 An evaluation of the theory of justice

The law as ontology and justice, as its manifestation in society, is a reality that holds the inherent possibility to change individuals and institutions in society. The realisation of ontic law/justice is the responsibility of man towards fellow humankind in realising values and striving towards equality for all humankind. Justice as *equitas* should not be confused with an idealised view as we do not live in a perfect world. The quality of justness might not be unjust or unfair, but it still can be outdated, inefficient, degrading or even humiliating without being unjust, as is evident in many reports on the current legal and educational system in South Africa. Mere lack of administrative efficiency is not unjust per se, but constitutes a justice that is not reminiscent of *equitas*. The lack of administrative and educational efficacy in the education system and the poor matriculation results are testimony of a schooling system that is no longer regarded as unjust in terms of equitable representation and opportunity to access, but in terms of the lack of commitment of many educators towards the calling of their profession. Justice is far from being reached. The poor matriculation results can further be extended to include poor reading, writing and arithmetic abilities, poor discipline or its total lack, not only of learners but also of educators. This situation that is partly the result of the legacy of apartheid and partly the result of the liberation before education campaign prior to 1994 urgently needs to be addressed.

Notwithstanding the imperfections of human existence or exactly because of the imperfections of human existence, legal action as an instrument of the state is invaluable in bringing about

harmonious relationships, also in schools. Although justice is in its strictest form conceived as legal action, forensic justice (*Mishpat*) or justice is that what the law says, justice is a much more encompassing construct. These added dimensions or theoretical constructs of justice include moral rightness, virtuous and justice based on ethics. Justice is rational, legal, fair, equal and equitable, and espouses mutual respect and holds notions of itself in high regard. These theoretical constructs are evident in legal action of the state that makes judicial decisions based on moral rightness, that are virtuous, fair and equal, but also for individuals who are law-abiding citizens of a just state.

Rawls's notion of justice as virtue and justice as fairness, and Koopman's notion of justice as compassion (*Tsedaqah*) are about justice of sacrifice of the self and for the other. They are about a deliberate choice for the good and just of society. It is more than merely a notion of 'love thy neighbour' but is about intrinsic perfections of character and character traits such as forbearance, self-restraint, contentment, compassion, generosity, mildness, courage, meditation, and wisdom and it is equated to character traits that are typical of the good or noble person, the good or worthwhile life. These traits include and reiterate humanity and compassion as does justice as human rights, of being or becoming benevolent, righteous, trustworthy, and of filial piety and propriety.

Justice as rightness and fairness is also a normative political philosophy that extends as a theory of virtue into virtue ethics to develop a moral understanding of specific political, social, and economic institutions and societies. But it can also become regulatory, instrumentalised law, aimed not at conflict resolution and the creation of a just society but at overregulating instruction to give effect to the [equal] social provisioning programmes of a state. Fairness is an overarching form of justice that creates an environment for human society to conform to the norms of justice vested in institutions, in organisations of humankind, not in persons as isolated individuals, but as social participants, as co-operators. Other notions of justice see humankind as being created by God, and therefore should not be violated, but deserving of respect.

Rawls's view is that justice as fairness consists of structural features that enable and empower those who make judgements of justice, both the formal judiciary and informal decision-makers, in institutions and society. This notion of justice as fairness is reliant on a well-ordered society that will provide inclusive aims and interests for the individual and the collective based on equal respect and consideration that will assign rights and duties and will distribute rewards and obligations in relation to social cooperation.

Accordingly, justice as concept is the buttress of the concept social justice. It provides a theoretical basis for the analysis of and evaluation of social justice - not as onticity, but as modality of justice - in society and in institutions for a transformed society. In the following section the conceptualisation of social justice will be discussed.

2.3 SOCIAL JUSTICE

The conceptualisation of social justice is a difficult task, one that is politically loaded and subject to numerous interpretations (Shoho *et al.*, 2005:48) as is evident in the literature (Dotger & Theoharis, 2008:3; Karpinski & Lugg, 2006; Marshall, 2004:6; Marshall & Oliva, 2010:5). It becomes even more problematic when Strauss (2009:659) (§2.1) suggests that the term social justice is actually incorrect and that social justice should rather be public communal justice. Combined with the fact that it is best realised in organised communities, society, *per se*, is epistemologically essential and requires particular circumspection when thinking about the nature of social justice. Strauss (2009:569-570) believes that whereas social justice can best be operationalised and realised in societal relationships, a study of the nature of social justice is, in fact, a study of public, organised communal justice. But it is the actions of the individual in the community, in society, that are determined by his/her 'heart' towards fellow mankind. Social justice can therefore not merely be a study of a community and society, but should also be studied as it is operationalised by individuals. For the purpose of this study the colloquial concept society will be used.

To understand the use of the term 'modality' with regard to the concept 'social justice,' the meaning of modality should first be clarified. Modality should be understood as the reason for existence of all reality, that is man and its structures (Du Plessis, 1978:736-737). It is the way in which man experiences justice as a social being in an individual or a societal relationship. As Du Plessis postulates, experience is man's reflection on one's "*im Welt sein*" that is not dynamic, not changeable, but the most fundamental *modi* of man's existence, reflecting on ways of experiencing that is the same to all men, although not interpreted correspondingly.

A contextualisation and brief overview of the historical development, or what Ribbens (2007:360) calls the historio-biographical context, of social justice in education will suffice (§2.3.1). The ensuing discussion on the modality of social justice will be divided into a discussion of social justice phenomena (§2.3.2) and a discussion of the theoretical constructs of social justice (§2.3.3).

2.3.1 Contextualisation of social justice

Social justice and inequality in its social and historical contexts in and for education denotes that greater attention must be paid to groups who are left on the margins of society. Public education is inevitably shaped by the context in which it operates (Bates, 2006:278; Charmaz, 2005:522; Miller, 1999:62-63). To understand the historical context a cursory overview of the development and evolution of social justice is essential.

2.3.1.1 Historical context

Social justice has a long history that includes the social contract theories of Socrates, Plato, Aristotle, Locke, Rousseau, Kant, Hobbes and Rawls (Haworth, 2004:16, 48; Miller, 1999:2-3; Nieuwenhuis, 2010c; Rawls, 2007:565). Griffiths *et al.* (2003d:44) state that one of the most influential theories of social justice ever, was developed by Plato in the context of education. According to Novak (2000) the term 'social justice' was first used in 1840 by a Sicilian priest, Luigi Taparelli d'Azeglio. Eight years later Antonio Rosmini-Serbati used the concept in *La Constitutione Civile Secondo la Giustizia Sociale* (1848), whereas Miller (1999:3, 4) refers to progressive Catholicism developing notions of social justice, socialist movements that brought social justice discussions to the fore. He further alludes to Willoughby's book *Social Justice*, published at the beginning of the 20th century as the first sign of consciousness regarding social justice. However, Kurland, (1997:i-xii), in writing an introduction to Father Ferree's 1948 work *Introduction to Social Justice*, credits Pope Pius XI with using the term social justice, who, in researching the teachings of Aristotle and Thomas of Aquinas on legal justice, developed the "doctrine of Social Justice" (Ferree, 1997:3; Kurland, 1997:vi). Aristotle's concept of legal justice plus the act of virtue holds that legal justice is the responsibility of the state (Du Plessis, 1978:736), whilst the responsibility to enact those laws rests with the people who conform to that virtue simply by obeying the law. Thomas of Aquinas expanded Aristotle's thought into a concept that adds the idea of the common good to the definition of legal justice. Pope Pius XI's insights elevated the nature and function of institutions (such as schools) as essential components of the common good by distinguishing between 'institutional' (i.e. social) and 'individual virtues' as each person engages in acts of social justice (Ferree, 1997:29, 144; Kurland, 1997:ii, vi, xii) towards others. This coalescence of doing unto others that which is just, is part of the organic conception of society in which the flourishing of each element of a society is reliant on the cooperation of others. Therefore the aim of social justice is to specify the institutional arrangements that will allow each person to contribute fully to social wellbeing (Miller, 1999:4). For Miller social justice requires the notion of a society consisting of interdependent groups. These groups are found in institutional structures that affects the prospects and hopes of each individual member. This kind of society is able to bring about deliberate reform by an agency, such as the state, or an individual in the name of fairness.

In his definition Miller (1999:4-20) views the subject matter of social justice as a 'society,' a self-contained political community, responsible for the fair distribution of advantage (rights) and disadvantage, burdens, punishments (obligations or duties). Secondly this distribution happens in institutions that impact on the life chances of individuals, and thirdly as already mentioned is reliant on an agency that has the power to bring about change, namely, the state. This does not relieve the individual citizen of responsibility to endorse change for social justice to prosper; rather it is in cooperation with the state that social justice becomes a lived concept. However,

social justice and welfare should not be confused - *social justice is not welfare*. Social justice has to do with the means of obtaining welfare, not welfare itself (Miller, 1999:7).

Towards the end of the nineteenth and beginning of the twentieth century, school principals concerned themselves primarily with traditional spiritual values and the development of strong social relationships within a mono-cultural school community (Brooks & Miles, 2006)³. These principals saw their primary responsibility, with regard to social justice, to create solutions to social problems of the learners, correcting them through the promotion of appropriate moral and spiritual values and leading the learners towards 'perfectibility.'

However, sensing social problems and applying an uncomplicated and uncompromising moral functionalism as a salve was soon not enough for a field that was being propelled towards professionalism and systematic business enterprises, where the language of school principals changed from normative societal values to business values and rhetoric, from being the educational leader to becoming the CEO or business executive of a business enterprise that happens to be educational (Brooks & Miles, 2006; Ribbens, 2007), with little if any attention to social justice as a management imperative. Social justice in education as researched field is informed by law, political and social sciences, investigating notions of equity and equality. These scholars are critical, often feminist, and are concerned with ethical and moral theories largely rejecting the "rational-technical and efficiency-focused conceptions" traditionally espoused by the educational leadership knowledge base (Marshall & Oliva, 2010:14).

During the late twentieth and early twenty-first centuries a new movement developed, namely a pedagogy of and for social justice (Marshall & Oliva, 2010:15; Walker, 2003:171). Social justice as an educational concept should firstly be understood as a process of conscience building, of becoming acutely aware of having a heightened and critical awareness of oppression, exclusion, and marginalisation, or in the words of Freire (2004:17) *conscientização* or develop a critical consciousness, or that is about the acquisition of the ability "to perceive social, political, and economic contradictions (inequalities), and to take action against the oppressive elements of reality." This consciousness should lead to action or praxis against inequities in schools as principals are in a unique position to recognise, influence and act against inequalities and injustices (Larson & Murtadha, 2002:135). In this era the scholarly work of Pierre Bourdieu (1930–2002) and his initial work with Passeron on the (re)production of social status and advantage through schooling also needs acknowledgement (Thomson, 2003:315). His theoretical framework is mostly in educational research by policy sociologists and researchers working in and on education and youth cultures and identity theories, and how the 'logic of practice', and the 'habitus' of practitioners and educators are distinctive in the diverse contexts in education.

³This article, as is, was also published in Normore's 2008 publication: Leadership for social justice (Brooks & Miles, 2008). References in this chapter are from the electronic 2006 version.

It was only during the era between 1980 and 1990, known as the era of post-modernism that change towards strands of social justice in education management and related theories could be found. Post-modernism is regarded as a broad term that includes divergent approaches, mostly recognising and valuing “uncertainty, disorder, indeterminacy, regression” that is not necessarily progress (Brooks & Miles, 2006). But in the case of the emergent notions of social justice in education, progress was indeed on the cards. It was an era of proliferation of “ideas, perspectives and pedagogies”, focussing on the strong school principal who became the chief executive (Brooks & Miles, 2006). The post-modern era was about the emergence of initially loosely coupled strains of inquiry called social justice (Shoho *et al.*, 2005:47). It also saw the entrance of those on the margins of education administration and management such as various forms of pluralism (Capper, 1993:7-35), critical and feminist theory (Marshall, 2004), cultural diversity (Collard, 2007), and a Second Wave of moral, spiritual (Dantley, 2005a; Greenfield, 2004) and ethical leadership (Stevenson, 2007).

Brooks and Miles (2006) assert that social justice is a fusion of these post-modern elements, “and is a movement that prompts scholars and educational leaders to assume an activist stance in practice and urges them to practice liberation and emancipatory pedagogy in all facets of their work.” It is to be found in listening to the voice (subjective and multiplicities); in assigning value to multiple meanings and realising that identity is not natural or God-given but “a human construct” again consisting of multiple identities to adapt to changing circumstances (Potgieter, 2009). Pendlebury and Enslin (2004:41) argue that the continuing challenge of post-apartheid education is aligned with the Ministry of Education’s Country Paper (2000), stating that it is about ensuring that South Africans have the knowledge, values, skills, creativity and critical thinking required to build democracy, development, equity, cultural pride, and social justice. This kind of South African citizenry should be the outcome of teaching and learning that is in essence a political act, never neutral, and enthused by educators who are focused on creating equity and changing systems of oppression in public schools and in society, towards a socially just schooling system.

2.3.1.2 The origins of the concept of social justice

It is a significant and singular observation that the South African Constitution (South Africa, 1996a) has as its very first aim social justice as a juristic principle: “so as to (h)eal the divisions of the past and *establish a society based on democratic values, social justice and fundamental human rights*” (author’s emphasis).

Shoho *et al.* (2005:48-49) argue that a conception of social justice requires an understanding of its origins. The origin of the concept justice is *equitas* meaning *justice* as equal fairness (§2.2.3). To understand the dualistic concept of social justice, the Latin term *socius* for *social* needs clarification. *Socius* or social means companion (Shoho *et al.*, 2005:48-49). The combination of the two concepts of *equitas* and *socius* provides a literal definition of social justice as an act of

equal fairness to one's companion(s), an act of and for the common good (§2.3.2.1). The idea of social justice is basically rooted in the manner in which a society is governed through formal and informal laws, norms and sanctions of a specific government and society in a particular space and time (Kurland, 1997:iv-v).

Social justice is both philosophically thought-provoking question and an important societal concept where scholars in the fields of human sciences such as philosophy, politics, religion, education and economics grapple to find one overarching definition. Anderson and Taylor (2006:112) explicate that culture refers to the generally accepted manner of doing, norms, customs, beliefs and language, whilst social organisation as verb, is the order established in social groups at any level that brings regularity and predictability, and is recognisable on all levels of society. In this sense social organisation is not the same as societal organisations, such as schools, that are the result of social organisation.

Human society is defined as an aggregate of people living together in an ordered community, in a system, an organisation or an institution that came about because of social organisation and is regarded as a more or less "ordered community" (Soanes & Stevenson, 2008:1369) where social interaction occurs. These broad and wide-ranging descriptors of society are indicative of the difficulty that scholars encounter when trying to define a social manifestation, even the most basic of all, such as human society. Society, according to Durkheim, is *sui generis*, meaning an independent existence greater and more objective than the actions of the individuals that compose society and that society is more than just the sum of its parts (Anderson & Taylor, 2006:112). The world and societies we live in can be described in many ways, and indeed have been referred to as a new world order and new economy (Piller, 2007), whilst Sörman (2004) refers to it as trans-national or a Diaspora-world, one that manifests itself internationally in terms such as globalisation and universalisation (Bourdieu, 1991:96-97). Shoeman (2006) paints a dismal picture of our world as one of alarming disintegration where the total collapse of the general morality of societies all over the world is imminent or what he calls an "impending worldwide cataclysm."

Ferree (1997:18) put forward that justice as fairness is an overarching form of justice in an effective institution or organisation of man where the "power to make all human society conform to the norms of social justice is vested" not in man as isolated individual [emphasis added]. These institutions make up the social order and largely determine the quality of our culture (Velasquez *et al.*, 2010). Although the discussion by Ferree (1997:18) on Pope Pius XI's Encyclicals deals primarily with economic interaction in institutions, the argument is important as he concludes that the "power to make all human society conform to the *norms of social justice is vested in institutions, in organizations of men, not in men as isolated individuals*" [emphasis added].

In a society where individual citizens are allowed to further their ends the notion of the 'politics of difference' becomes important (Baumeister, 2000:197) as it offers an individualised vision embedded in its particular characteristics and attachments. Rather than seeking universal standards that will enable citizens to transcend particularised notions, the advocates of difference and diversity affirm the significance of particular standards and local values. In such a world difference and diversity are to be celebrated and recognised, whilst the inherent conflicts of difference are to be negotiated through open, fair dialogue, so that people learn to live with and not against diversity as a "positive and vital aspect of human excellence" (Baumeister, 2000:199).

Nieuwenhuis (2010c) critiques the economic notion of social justice and the competitive individual. His argument is that one should rather distinguish the locality of human beings within what he calls "social networks", networks that are operationalised through social rather than economic relationships. In these networked relationships barriers do exist, as is evident in the fact that not all people are able to reach their fullest potential. The reason is that in an attempt to gain power over our own lives, we often have to infringe on other peoples' right to the common good. But Kurland (1997:iv) asserts that these barriers of infringement should be utilised to address faulty ideas, confused value systems and failed institutional structures, not only by state actions but in taking personal responsibility to act in a socially just and cooperative way to bring about change in the social order. This collaborative act of social justice renders others more important than the self (Shoho *et al.*, 2005:49), where empathy and caring for others are the basis on which a society should be built. Modern nation states are about a culturally diverse society and today's schools and education sectors are reflective of this new world order of diversity.

Schools and the education sector are no longer about mono-cultural entities, but are playgrounds of diverse cultural dynamics where cultural values and leadership practice are forming new ways and patterns of cultural behaviour (Collard, 2007). Cultures are primarily concerned with the sphere of values that enable our understanding of the relationships we encounter in the organisations in which we work, but one's perceptions of cultures, one's own and that of others, are often conditional to our participation or non-participation in the work-environment (Bates, 2006:279). Bates (2006:152) asserts that the role of the school is to protect individual rights of all learners and to provide space for communicative action amongst the different ways of life. He calls for a fusion of instrumental and normative processes, whilst criticising the current notion of the school as a performative agency with merely economic outcomes to be reached. Bates (2006:152) believes that schools can counter the cultural divide through an ability to reach agreement across boundaries of difference, countering the effect of a cultural breakdown, a cultural discord and a compression of cultures.

As is the case with social justice as a social phenomenon, social justice as a cultural phenomenon cannot escape the critical debate on the international notion of global Western education programmes that aid the under-developed world – education programmes by the grace of advanced and developed Western nations, mostly bestowed on the underdeveloped worlds of Africa. These international rescue programmes are mostly propagated by UNESCO, the OECD, the World Bank and the Asian Development Bank (Collard, 2007), all dancing to the tune of social justice. The most ambitious is undoubtedly UNESCO's "Education for All" programme, which aspires to provide universal (Western) education throughout the world by 2015. This then constitutes a *tsunami* that inevitably draws non-Western cultures into the web of Western values and beliefs that reinforces "cultural paternalism" towards recipient states (Collard, 2007). The drawback of this enforced culture-for-all was that institutions such as schools failed to give recognition to and to affirm the knowledge, experiences, and assets of culturally diverse groups and populations (Cooper, 2009:698).

Theory in the context of this research on social justice, and specifically of Chapter two, is understood as "a set of propositions that explain the relationships amongst observed phenomena and interrelated constructs that will help to explain the nature of social justice phenomena as it manifests itself in society" (Creswell, 2009:51).

2.3.2 Social justice phenomena

Phenomena are regarded as something such as social justice, that happens or exists in society. In social science research social justice as concept is difficult to understand even though it is observable in the existential reality of societies, institutions and schools (Bullen, 2003:1229). As a social phenomenon social justice is operationalised or becomes lived experiences of agreed principles of the common good, enacted in a society or the institutions and organisations as manifestations of a specific society.

2.3.2.1 The phenomenon of social justice as the common good

The notion of the common good originated in the writings of Greek philosophers, Plato, Aristotle and Cicero. Aristotle's concept of formal justice includes an act and this act is a socially just act that Aristotle called 'virtue,' that people conform to simply by obeying the laws of the state (Kurland, 1997:v, vi). Aquinas built on Aristotle's thought of justice as legal justice and as virtue to include the idea of the common good, an idea that Pope Pius XI expanded to include the notion of social justice. These notions of the common good and of social justice are regarded as personal virtues and as attributes of the social order; society can be just only if individuals and institutions are just. Social justice as an inclusive justice is an important value to live by, but the value of a just life lies in resultant outcomes of that value, a form of goodness that enhances the good individual and the good society (LaNave, 2005). The nature of the common good is dependent on every person, disregarding status and position to enable effectiveness, and it is

the objective of social justice, “something which each of us possesses in its entirety, like light, or life itself” (Ferree, 1997:10).

Rawls (1999g:361) postulates that in a well-ordered society a public understanding of providing answers to social justice endeavours should include a communal understanding, a common denominator, that should guide the assessment of citizens’ claims as well as their relative weight towards the common good, mutually and inclusively advantageous for the purpose of justice. For Rawls (1999g:361) the dilemma of the common good lies in a self-interested and immoral society. This dilemma is referred to the ethics of individualism and individual rights (Velasquez *et al.*, 2010). It can be addressed through the notion of primary goods in a partial agreement on what constitutes and what is regarded as sufficient common good for political and social justice praxis. They argue that not all citizens agree equally - ‘*completely*’ - on conceptions of the common good of a society for political or social justice purposes. John Rawls defined the common good as general conditions that are equally available to the advantage of every citizen, each person’s good, rather than an overarching good (Rawls in an interview with Prusak, 1999:622).

A conception of the common good should include an understanding of what is regarded as valuable in human life (Garrett, 2005). The common good is normally understood to include a more or less determinate scheme of final ends or outcomes, that should be realised and includes attachments to other persons and loyalties to various groups, associations and institutions of society (Rawls, 1996:19).

Instead of trying to define the concept social justice, Father Ferree goes beyond naming, as he equates this major advancement in moral philosophy with the duty which each of us is personally obliged to perform in caring for the common good. This caring for the common good is social justice in action that is evident in the network of customs, laws and social organisations, our lived institutions (Ferree, 1997:6) (Table 2.1). In Roman Catholicism the common good is defined as “the sum of those conditions of social life” that relatively determines ready accessibility to social groups and individual members (Velasquez *et al.*, 2010). These social systems, institutions and environments impact on societies and therefore social injustices are directly linked to the success or failure of these systems as well as the degree to which these systems are successful in seeking the common good (Velasquez *et al.*, 2010).

Griffiths *et al.* (2003a:54) postulate that social justice is a ‘verb’, as did Ferree, therefore social justice is ‘action’. She argues that social justice is a dynamic state of affairs that is good for the common interest: both the good of each individual and the good of all in a society, acknowledging the interdependency of both and the fact that the one is not possible without the other. This common good, she argues, is dependent on mutual recognition and respect, and the right distribution of benefits and responsibilities, a fair distribution of rights and duties. This fair distribution is furthermore concerned with simultaneously paying attention to individual

perspectives and dealing with issues of discrimination, exclusions and recognition, especially on the grounds of race, gender, sexuality, special needs and social class in society. In being dynamic, acting as a dynamo, this action of and for social justice is never complete, it can never reach certitude nor can it ever reach the level of atrophy. Griffiths *et al.* (2003a:54) belief lies in the fact that she sees the search for social justice as one that has inherent “tensions” between the well-being of individuals, of whole societies and of social political groups.

It is in countries where political controversy occurs (as is the case in South Africa) that fundamental social justice or injustice questions brought to the fore by social political groups are evident (Rawls, 1999e:392). But, argues Ferree (1997:16), social justice is the ultimate principle of human society as is evident from Pope Pius XI's declaration that only social justice (organization for the common good) and not violence in any form, can be the ultimate principle of society. To address social justice and specifically, injustice issues, scholars who are seeking answers to the anomalies of the conflict between the common good of the individual and that of society need to find a common denominator, a common middle-ground. This common denominator is about the common good of each and the good of all in a society constructed on the interdependency of both (Griffiths *et al.*, 2003d:89).

Baitu (2009) argues that the common good is increasingly becoming a transnational reality. A social reality that is characterised by a complex interdependence that requires participation and cooperation to create social conditions in which groups or individuals can reach fulfilment. This complex interdependent social reality includes three essential elements: respect for persons, respect for the fundamental rights of each person and respect for the natural freedom of choice. Scholars on social justice regard respect, self-respect, as a primary good that all in a society should share if the society is to be just (Walker, 2003:173; Weir, 2009; Young, 2007:597). A just society understands the common good of social justice as inclusive of moral normative aptness.

2.3.2.2 Social justice phenomenon as ethical, morality and values

Social morality deals with the duty which each of us is personally obliged to perform in caring for the common good. In relation to the attributes ‘morally right and fair’ the publication of John Rawls's *A Theory of Justice* in 1971 brought about a renewed emphasis on normative political philosophy and theory. John Rawls is widely regarded as the most substantial and interesting contributor to moral philosophy and is viewed as the world's leading political philosopher of the twentieth century. The globalised world we live in requires a new moral and intellectual authority, a common voice that will enhance our understanding of the common good in a diversified world (Ferree, 1997:24; Hursthouse, 2007:45; Mehison, s.a.). Hursthouse (2007:47-48) prefers the words “excellence” and “virtue-as-excellence” rather than virtuous because excellence of character - *ethike arete* - is as good of its kind as it could be. Virtue-as-excellence includes morality, a moral character or a moral person whose excellence of character is a disposition, an attribute that allows an individual to act in certain ways for certain reasons.

The notion of the common good is questioned by Horsthemke (2005:180), who argues that the alleged equal commitment to both the common good and the individual is problematic because “any philosophy that has as its core commitment to the common good is contentious.” The very idea of a common good is inconsistent with a pluralistic diverse society in that not all people agree on what constitutes “the good life for human beings.” It is based on a valuation of what is good and what is not, determined by those in power who will promote the views of some and exclude others. The result is the violation of the right to freedom of those who disagree and it will inevitably lead to paternalism where one group’s preferences impose on another group or groups, creating tyranny and oppression. Horsthemke (2005:180) includes criticisms such as the value of the individual *vis-à-vis* that of the group, the notion of the free-rider who is not doing his or her part, but shares in the equal benefits of the common good, and lastly the problem of unequal sharing of the burdens or tasks to create the common good.

Nieuwenhuis (2010c:14) asks whether justice without morality is possible? He believes that social justice is impossible within a self-interested and immoral society and argues that personal agency and responsibility towards social justice is what is needed in this moral debate in an unjust society. Effron (2008:39) concedes that it is a daunting task, a task that is not possible through regime change but rather through education. The role of the state and state departments such as education, in this debate on morality, cannot be ignored as it is one that should take human agency seriously, enabling the self-development and self-determination of the individual citizens (Pendlebury & Enslin, 2004:36).

Values are defined as the pattern of that which is desirable and motivational forces that influence individuals, groups, organisations and societies to make deliberative choices from available resources and means, according to Begley and Stefkovich (2007). They describe the influence of individual values as the internal psychological reflections of more distilled levels of motivation (e.g. concern for personal interests, consequences or consensus) that become tangible to an observer in the form of attitudes, speech and actions. Thus, values in its various forms include ethics that are viewed as conscious or unconscious influences on attitudes, actions and speech. For Bates (2006:142) values ought to be at the heart of the management enterprise in education in a diverse world. Bates (2006:151) envisions a *modus vivendi* of diverse communities with multiple values that co-exist alongside each other in institutions and societies. This co-existence is about reconciliation and honouring of respective conflicting values to a shared life in common institutions in which many diverse forms of life can coexist in a hybridised state such as schools, which are clearly such institutions. Education based on sound moral values can be regarded as the social justice playing fields of educators and learners where the praxis should lead to a life of justice and truth.

From theory to practice is often very difficult, but most of the research literature shows that social justice is about action for the common good (Cambron-McCabe, 2010:36; Dantley &

Tillman, 2010:26-30; Ferree, 1997:1, 10; Kose, 2009:629; Kurland, 1997:iv-v; Marshall & Oliva, 2010:11; Merchant & Shoho, 2010:130; Nieuwenhuis, 2010c), a common good that is also aligned with the emancipatory and the social-constructivist paradigm of this research.

2.3.2.3 Social justice as an act

In essence social justice is concerned with the praxis of equal justice both judicially and socially. The problem to define social justice is further complicated in the sense that it is a concept that is very difficult to implement but simultaneously actions are necessary to make social justice visible, to construct a socially just education system. A person's own perceptions of social justice issues and the nature and goals of human existence determine a person's actions and views as far as the use of the notion of the 'good citizen' within a legal or judicial context is concerned (LaNave, 2005).

Social justice praxis is about legal, environmental and many other cross-disciplinary spectra of human social activities and research endeavours. Novak (2000) claims that "[w]e must rule out any use of 'social justice' that does not attach to the habits (that is, virtues) of individuals." It is through the performance of social justice, the praxis of justice that the common good becomes possible and visible. The perpetuation of turning to the government to enforce these virtues, such as non-discrimination, equality, and human dignity through legal coercion, is one of the greatest weaknesses of our time and is one of social justice wrongly understood (Novak, 2000).

According to Novak's (2000) understanding, social justice is a specific custom or act of justice that has two social constructions: the first being an act or skill and the second is about "social justice rightly understood." The first social construct of being an act or skill is about cooperation to accomplish together a work of justice. These actions and skills emerge from a civil society that consists of people who by their own free will choose, without government intervention, to do what is morally and socially considered to be the right action to take. The notion of a collaborative action between giver and receiver indicates cooperation and community or kinship and is regarded as a specific act of justice. The second social construct of "social justice rightly understood" (Novak, 2000) is that it has as its aim the good of the broader society, not merely the good of one member only. This all-encompassing aim should lead to a justice that becomes customary practice of all members of a society because "social" has as its "object, as well as its form" the primacy of caring for, regard of and for, and bestowing goodness on others.

The act of social justice is whatever the act of social justice is performed in association or cooperation with others in the institutions of modern society (Ferree, 1997:3; Kurland, 1997:i). It is about the restructuring of those institutions and laws, networks of customs and social organisations, the lived institutions, to advance the perfection of every person. It is about co-existence to the benefit of all. How well an institution advances social justice can be measured in terms of its success in elevating the dignity, status, power, and well-being of every participating person and family. The personal responsibility lies, justly so, where the disparities

in opportunities and power between those at the top and those at the bottom of the institutions are extensive. The greater the divide, the greater the personal responsibility to engage in acts of redistribution and of recognition become. Ferree (1997:23) claims that without fair and righteous organisations, without good social groups, without just institutions, there will be no room for social justice, “and in such a state the perfection of human life becomes impossible.”

Ryan and Rottmann (2007) contend that equitable distribution of goods (as well as rights and responsibilities) is an important and desirable goal, but it involves more than distribution, it also involves recognition. The reason why recognition is regarded as important is because of the injustice that is incurred if certain groups of people are not accorded the same value which is not recognised as being equal to that which other groups receive. These marginalised and unrecognised groups find themselves in this position because of their particular identities, identities that most frequently are related to gender, race, ethnicity, sexual orientation and others. “Achieving social justice, then, requires attention to both distribution and recognition” (Ryan & Rottmann, 2007). From this argument North postulates a theory of justice that neither subordinates recognition or redistribution issues nor denies their interrelationship (North, 2006:511-513). Discourses on redistribution in education should question the contradictions of social life, target systemic and institutional arrangements, the way people create these arrangements, and how people can ameliorate their harmful effects on institutions (North, 2006:511-513). Social transformation and consequent redistribution is about an interrogation of relations of domination and power, being replaced by social justice praxis.

North (2006:509) argues that the expanded meaning of social justice can also be explored in the tensions underlying the interface between redistribution/recognition, and sameness/difference as it is constantly being affected by institutional macro- and micro-processes. Following is an adapted visual explanation of what North understands these tensions to be (Figure 2.2):

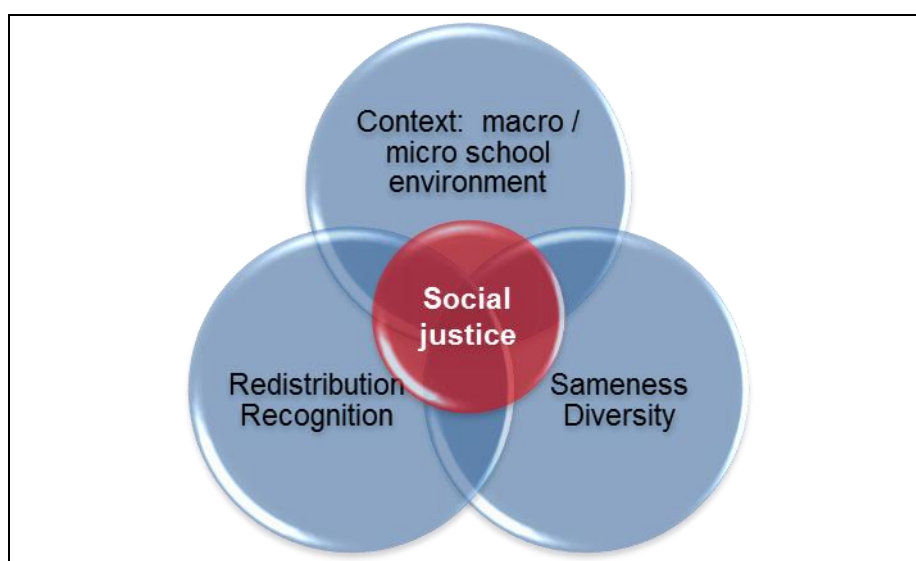


FIGURE 2.2: The three spheres of social justice (North, 2006:509)

Social transformation and consequential redistribution is about an interrogation of relations of domination and power.

With regard to a recognition model of social justice, North (2006:513-515) postulates that the various groupings identified as LGBTIQ (lesbian, gay, bisexual, transgender, inter-sex and queer and others) take issue with the redistributive paradigm of social justice. The issues are to be found in the tension of a reciprocal relationship in which each sees the other as its equal and also as separate. In the education system and its institutions, issues of misrecognition can be addressed in an environment based on respect and inclusion of all students by creating multiple opportunities for teachers and students to experience diverse perspectives, providing opportunities for critical dialogue on difference, human rights, and social justice in order to create a caring environment of mutual recognition. Redistributive actions should provide opportunities to close the power gap by restructuring the institutions in which we work and live, transforming and reforming the formal and informal laws which shape our social interactions (Kurland, 1997:ii).

Young (2007:591) contends that social justice means the elimination of institutionalised and organisational domination and oppression and she argues that any aspect of social organisation and praxis related to domination and oppression must be scrutinised and evaluated through the ideals of justice that recognises morally proper distribution of benefits and responsibilities, as it is, according to Visser (2001:1695), the social structures of institutions that often sustain and co-determine distributive patterns of injustice. Young (2007:600-601) sees social justice as the degree to which a society contains and supports the institutional conditions to realise values.

A post-modern society that needs to contain and support the requisite conditions of realising values and social justice cannot be imagined without political structures and dominance (Kiwan, 2009:83).

2.3.2.4 Social justice as a political phenomenon

Social justice can be regarded as a political conception of justice (Rawls, 1999e:389) that commits a person to certain moral views pertaining to fellow citizens in an existing political society so that these views become embedded in the cultures of institutions and organisations. Rawls (1996:11-14) describes political conceptions of justice as a moral understanding of a specific political, social, and economic institution that fits society's basic structure into one system of social cooperation from one generation to the next. However, Goodwin (2007:3-4) argues that political theory is "about *what ought to be*... rather than describing *what is the case*", theory versus practice, ideal versus reality, whereas Baradat (2009:7) argues that political theory can be used to assess accomplishments.

These actions and accomplishments are visible in the network of social justice concepts that is quintessentially about equality. If humankind is born into his or her social circumstance as

Rawls argues, in being part of a specific society or an institution, then what is needed in the post-modern democratic world is at least a social justice right to claim equality. But a distinction between formal equality and substantive equality is needed: formal equality might have divergent or unequal results, whilst substantive equality towards fairness can become a mundane discourse on difference and disadvantage (Nieuwenhuis, 2010c:3). Marshall and Oliva (2010:5, 6) expand this notion of a network to include concepts such as equity and cultural diversity, tolerance, respect for human rights and identity, democracy, idealised communities, a sense of belonging, but also as injustice - injustice from competitive market forces, policies, political practices and privilege and of human rights.

Political and ideological reactions towards injustices found in manifestations of movements such as feminism, anti-racism, post-colonialism, etc., are characterised by an attitude of being *for* women, black people or other disadvantaged social groups. According to Baradat (2009:284) the feminist movement is such a result of injustice of male domination leading to struggles of equality and social justice. Often these notions of being ‘against something’ are based on deficiency thinking. Deficient groups are set in geo-political and economic contexts and societies that are non-normative, marginalised peoples whose plights are brought to the fore of peoples’ consciousness and are then viewed as social justice foci (Dantley & Tillman, 2010:19; Dotger & Theoharis, 2008:222). Ethnicity and race as political constructs are inevitably linked to colonialism, and as such Castells (2004:56) calls for the eradication of discrimination that is based on ethnicity and race in a post-colonial world. The difficulty in finding one central definition is compounded further as it seems as if these assemblages almost always are about enhancing one injustice over another at a specific time and place (Dantley & Tillman, 2010:19; Kose, 2009:630; Marshall & Oliva, 2010:5-6).

Marshall and Oliva (2010:5-6) do not give one, singular definition, but rather describe social justice as a challenge. They refer to the discourse that includes concepts of social justice such as “equity or cultural diversity”, “human rights and identity”, “achievement gap, or democracy and a sense of community and belongingness”, or “inclusion” and valuing differences of marginalised and/or culturally diverse groups to eradicate injustices emanating from competitive market forces, economic policies, political practices, and traditions that maintain elite privilege.

Other scholars delineate social justice and a specific cause, such as leadership and issues of race, diversity, marginalisation, gender, spirituality and add to the discourse what they call “formidable issues of age, ability, and sexual orientation” (Dantley & Tillman, 2010:19-20). They also warn against an attempt at providing an ‘essentialised definition’ and argue that it would be more appropriate to prolong any attempts at defining these notions. This will enable a definition of social justice that is more germane to the multiple conditions in specific educational institutions. A postponed attempt at defining social justice will become far more useful and ultimately practiced and should bar inequities and marginalisation.

From a leftist viewpoint, however, legislation is frequently believed to be the only vehicle to create a just society and by implication just schools for the common good. Various social justice programmes are a result of legislation – especially in accordance with the South African Constitution that aims to heal past divisions through social justice programmes for a South Africa that “belongs to all who live in it, united in our diversity” (South Africa, 1996a). These actions of the state are aimed at the provision of equal opportunities for rich, middle class, the poor, as well as for those who are living on the margins of society. The argument is that through anti-discrimination legislation and equal opportunity programmes equality to all can be achieved through a moral basis that is truly equal education which is socially just towards every learner. Gelderblom (2005:118, 120) argues that the state is necessary to protect and nurture individual freedoms in a society and in institutions through just legislation and just regulations that will ensure just and fair distribution of benefits and responsibilities as acts towards the common good.

The process of creating critical democratic citizens is about the enabling of learners as “active, informed, and engaged” (Walsh, 2009:57) citizens who can critically engage with and address the root causes of economic, cultural, social and political injustices.

2.3.2.5 Social justice as human rights phenomenon

Social justice as a democratic phenomenon

What would be the role of the education system in preparing the next generation who are to take part in a democratic political process, and the concomitant responsibility of the schooling system towards nation building in a globalised world? (Astiz & Mendez, 2006) Astiz and Mendez (2006:176) argue that education is deemed to be a means for nation building and conflict resolution. Soudien (2006) adds that it is especially true in transitional societies who are accorded democratic status such as South Africa, as is the case with Argentina. Developing a democratic nationhood demands that universal values will be taught that will include democracy, civil society, citizenship and social justice. Previously Walker (2003:170) also argued that education is about more than educating and teaching for economic citizenship. It should be explicitly about democratic citizenship built on an understanding of and solidarity with conditions of cultural difference and diversity.

Scholars such as Soudien (2006), Carr (2007) and Walsh (2009:55) claim that civic education or education for democracy should become a priority in school reform, enabling democratic skills, knowledge and dispositions that should form part of an integrated curriculum and an educator’s professional development programmes. Begley and Zaretsky (2004) argue that democratic school leadership processes are necessary because they reflect socially mandated ethical commitments and can be justified as a vital approach for effective school leadership in an ever-increasing diverse world. The justification for democratic leadership would include the nature of the school leadership role, the social context and an ideological social mandate.

Cambron McCabe (2010:48) professes that for school leaders to take up the challenge of social justice is not for the faint of heart as actions of school leadership are about democratic imperatives in the everyday life of schools, imperatives that would include social justice and human rights.

Social justice as a human rights phenomenon

A commitment to explicitly incorporate human rights as guiding principles is necessary in all aspects of an institution's life, permeating not only the management and teaching structures of the school, but also its organisation and practices. Noonan (2006) claims that human rights in education is about setting standards that will assess whether an educational institution is genuinely meeting the basic constitutional right to education of each child (South Africa, 1996a) for whom it has responsibility. Schools are populated by diverse communities, not only learners, but also educators, parents and the broader community they serve (Collard, 2007; Sergiovanni, 1992:1009). In the world of the 21st century, monolithic cultures and school communities belong to the past. Bates (2006:147) affirms that covenant building towards human rights, justice, fairness and equality in a diverse community and school is difficult. Nieuwenhuis (2010c) not only see the difficulties, but alludes to the fact that human rights is a product of Western liberal tradition and emancipatory vocabularies that seeks a rational legal justification not in faith, private life or economics, but in individual human rights.

Bates (2006:148) highlights another argument in terms of human rights and education's role therein. He argues that the problem of a diverse community is the notion of 'one size fits all,' since the state, as legislator and as adjudicator, has to address social injustices generically and evaluate whether the desired values and performance have been reached. This leads to government officials with power to hold individual communities and schools "accountable for the achievement of such standards and (are) publicly praised or vilified accordingly." For Bates (2006:152) the role of the school is to protect the individual rights of all learners and the provision of a co-existence living - communicative action - between the different ways of living that should be valued within the context of the school. Rather than state-control, schools should on their own accord initiate instrumental human rights processes in the school to match the normative processes.

The most likely place where difference and diversity can be addressed will be in the schools that are living the praxis of social justice that will help with capacity building in an effort to cross the boundaries of difference. Mahlomaholo (2009b:2) contends that the then Deputy President, Thabo Mbeki's declaration 'I am an African' on 6 May 1996 on the adoption of the South African Constitution "was not arguing or celebrating his diversity or difference." Rather it was about the transcendental spirit of the human mind over adversarial intents, purposes and impacts of looking at some people(s) as 'the other'. Mbeki affirms that he is "actively campaigning for African-ness, ... more specifically South African-ness" that transcends ethnic or tribal affiliations,

real or imagined boundaries, South-African-ness is about our common humanity, it is “anti-diversity” (Mahlomaholo, 2009b:2-3). This notion of anti-diversity contradicts the notion of a ‘politics of difference’, where difference and diversity assert the significance of particular standards and local values. This notion of a politics of difference might at this stage be controversial, as it values difference as priority over sameness or anti-diversity that is contentious in the South African context of post-apartheid democracy.

Coming from a divisional past and moving into a society that needs to reconcile and create social cohesion, Enslin’s (2000:86-87) argument that the Truth and Reconciliation Commission provided South Africa with a moral agenda that invites all citizens to participate in developing a culture of human rights and reconciliation, both of which should be included in the formal education curriculum, is apt. This is despite a long walk towards human rights and social justice in education, of professionalisation of education praxis to transform public schools into caring, safe and non-threatening social spaces (Oliva *et al.*, 2010:288).

From a geo-historical perspective it can be accepted that social justice in the South African context is embedded in a struggle history for social change, particularly struggles against domination and oppression of varying kinds and specifically of apartheid injustices. Therefore human rights as we currently know it are not merely about philosophical notions of justice, democracy, or ‘the good society’. Rather, they are about claims which individuals may legitimately make upon their societies for certain defined freedoms and benefits (Merchant & Shoho, 2010:121). In similar vein, Mandela (1994) previously also stated:

Our single most important challenge is therefore to help establish a social order in which the freedom of the individual will truly mean the freedom of the individual.... Our definition of the freedom of the individual must be instructed by the fundamental objective to restore the human dignity of each and every South African.

Fiske and Ladd (2004:233) suggest that while South Africa has made good progress in some respects, equity and human rights “has remained elusive” because of South Africa’s historical legacy. Many of the freedoms gained after 1994 have remained available only to black families in urban areas with the ability to pay high school fees, transportation and other costs. The majority of black families continue to live in townships and rural areas that were part of the apartheid system and most attend schools that continue to be poorly provided for and have poorly trained teachers.

Although this might be the case in political debate, the common understanding of most people on what constitutes human rights, or what are infringements of human rights, which is an easier topic to talk to, a study in New Zealand indicates that most people, laymen and school leaders alike, had a strong general sense of what human rights are, but most had little formal knowledge about human rights (Noonan, 2006:6). Noonan argues that it is important to make

human rights explicit in the development of legislation, policy and public sector procedures. The responsibility to respect human rights lies with the State, but also at levels such as regional and local government, to the community at large, including schools, and activist human rights groups. “Indeed each of us has a duty to exercise our rights responsibly and to acknowledge and respect the rights of others” (Noonan, 2006:7-9).

Social injustices and human rights violations that persist after 1994 are evident in the practices in society and education.

2.3.2.6 Social justice as an educational phenomenon

Apple (2008:241) believes that education is a political act, not merely an educational act, that needs to be located into the unequal relationships of power in the larger society and into the relations of dominance and subordination in the social institutions. Both of these - relations of power and of dominance - generate conflicts in the political arena as well as in the institutions and organisations of societies. Across the world, societal institutions and their organisations play an important role in raising awareness of issues found in campaigns for equity and greater democratic participation (Mncube, 2008:89). Education can be used as an instrument to create equality and is supposed to be the greatest equalizer of the conditions of man (Williamson *et al.*, 2007:215).

In schools social justice is reminiscent of something social that demands from each individual all that is necessary for the common good to endure (Ferree, 1997:18). In a post-apartheid, post-modernist South Africa, the need to include the increased demand for a diversified social, educational and cultural, linguistic, religious and racial environment forms part of the drive in educational institutions to find a common denominator or middle ground for a culturally diverse world. The arguments for an education system based on principles of the common good raise questions because nowhere is education an uncomplicated ‘good’ (Walker, 2003:169). All school systems produce and reproduce justice and injustice, equity and inequity. What is at stake is not the fact that it reproduces these injustices but to understand why, when and how and then take action to eradicate them. It is in the creation of a common consciousness for diversity and difference that learners are enabled to participate in creating an improved and more desirable form of social life (Walker, 2003:170).

Social justice in education is described as a war against inequities, as making revolutions in education (Marshall & Oliva, 2010:2-4) and as transformational (Dantley & Tillman, 2010:22-26), but it remains an unfulfilled ideal of rectifying social injustices. The educational sphere, where social justice should blossom, cannot be accounted for without acknowledging the multiplicity of contexts within which the education endeavour exists (Bates, 2006:278; Dantley & Tillman, 2010:22), and the multiple realities of time and space where education for social justice becomes operationalised. These realities of space and influence need to be deconstructed to expose the multiple ways in which schools and their leadership reproduce behaviours of

marginalisation and oppression based on perceptions regarding the 'other' whose identities are regarded as outliers in the celebrated dominant culture (Dantley & Tillman, 2010:22).

Collard (2007) reminds us of the fact that culturally diverse dynamics are central to schools, colleges and institutions of higher education. The challenge of diversity education to values and leadership praxis are taken up by scholars such as Dantley (2005a); Begley and Zaretsky (2004), Begley and Stefkovich (2007); Edmondson and D'Urso (2007); Ribbens (2007); Morrison, Robbins and Rose (2008); and closer to home Soudien (2006); Mncube (2008); Du Preez and Roux (2010); Nieuwenhuis (2010c), and Van der Walt *et al.* (2010).

The educational environment which is occupied by a diversified educator-learner and parent body should be exemplary of a truly democratic school environment. The democratic educational environment is inherently about the celebration of diversity, multiple voices, identities and respect for the views and opinions of all who form part of a specific community (Dantley & Tillman, 2010:22). Waghid (2005b:132) further argues that educators and learners ought to become "responsive, democratic and critical", they are called upon to act justly in order to break with South Africa's apartheid legacy, in that dialogic spaces in education are created. In this dialogical interaction, learners becomes equals and in so doing social justice manifests itself (Mncube, 2008:95).

It is this unaccomplished equity and democracy of a diversified educational environment that calls for action to address the social justice challenges in schools. At school level Marshall and Oliva (2010:5-16) view social justice challenges in education as being issues of achievement, access, human rights, identity, diversity of race, gender and ability, and even injustices resulting from inequitable market forces. In essence Marshall and Oliva believe that the very real challenges in education sprout from changing demographics, cultural diversity, and the struggles of identity that is, according to Castells (2004:6), man's search for understanding of meaning and experience, at historical societal, political, governance, community, and in South Africa at historically colonised levels.

School leaders cannot individually address these challenges, but Marshall and Oliva (2010:14) believe that it is through major changes in cultural understandings and societal and school expectations that shared values, coalitions, networking, and mutual support will bring about a socially just educational environment and a socially just educational praxis.

Dantley and Tillman (2010:23) captured the most frequently used descriptive themes for social justice that focus on marginalised groups. These themes include moral values, justice, equity, care, and respect. It is also necessary to question the layers and impact of race, ethnicity, class, gender, sexual orientation, and disability on the educational outcomes of learners. They argue that social justice school leaders need to have the following characteristics: a consciousness of context in social, cultural, and political environments, the ability to criticise marginalizing behaviours and predisposed assumptions of schools and their leadership, a commitment to and

a genuine enactment of democratic principles, a moral commitment to communicate a counter-hegemonic vision or narrative of hope, and lastly a conviction to move beyond rhetoric to human and social rights activism in their schools.

A critical approach will furthermore question the creation or not of a supportive policy environment. Such an approach will question whether the educational system is a power engine that instead of one that establishes processes based on recognition, respect, care, and mutuality; affirms processes of marginalisation and exclusionary relationships, practices of cultural imperialism, and violence (St. John, 2007:69). The requirement of a socially just education system is one that employs educational leaders and practitioners who show moral outrage at the persistence of social injustices, build a truly democratic community, committed to the social good and create spaces and conditions for fair and equitable teaching and learning praxis.

It is in schools that have principals who are truly committed to social justice that a democratic culture will flourish. In the development of such a culture, leaders should take note of injustices and work towards their eradication. In schools where social justice concerns are a priority, school leaders understand and name injustices that rob individuals of their rights and dignity and take action to change oppressive structures that perpetuate injustices (Cambron-McCabe, 2010:48). Cambron-McCabe argues that not only should oppressive systemic structures that cause and sustain injustices be confronted, leaders should pose critical questions, also about their own assumptions. The question remains whether South Africa and the education system have succeeded in overcoming injustices in education and the larger social community? To answer this question it is evident from the current academic discourse (Nieuwenhuis, 2010c; Pendlebury & Enslin, 2004:31-32; Soudien, 2006) that the criteria for judging accomplishments in social justice and the achievement of an ambitious agenda for social justice in South Africa through education and legislation is off track, as social injustices persist despite an impressive suite of government, provincial and ANC policy documents for a more just education system.

Concepts of injustice include discrimination, racism and ethnicity, marginalisation, inaccessibility, powerlessness and other human rights terminology. Bates (2006:145) argues that it is the idea of the common good (§2.3.2.1) that sets out the foundation for approaches to social justice, or, “rather, it is observations of social injustice that set the scene for considerations of social justice and common good.” Goodwin (2007:397) professes that although justice is the highest goal of political life, it is injustice which dominates political debate. The injustices that apartheid delivered onto the majority of South African citizens, are still continuing after sixteen years of democracy and one needs to ask whether apartheid can still be held accountable as the only contributing factor to the dire situation that education finds itself in (Pendlebury & Enslin, 2004:41; Vale, 2009:9). In terms of exclusion, structural oppression, lack of access and many more critical social injustices, the ANC government can no longer only

blame apartheid as the inequities are evident on various levels of poor educational decision making such as, to mention but one, the now redundant outcomes-based education.

Bates (2006:280) argues that social justice has recently acquired a new intensity and urgency in education such as the growing diversity of school populations and documented difference in the achievement and economic gaps between mainstream and minority groups in schools (albeit in South Africa in many cases one would not be wrong to argue that it can also be the majority of children), and lastly the increased evidence of social injustices in schools as a result of the policy environment of high-stakes assessment and accountability.

However, LaNave (2005) maintains that it is important to establish what people's idea of injustice is, not merely by stating an injustice of injustices, but also to ask them to reflect on their vision of "the way things ought to be" whenever they speak about an injustice. Brooks and Miles (2006) postulate that awareness of social injustices is not enough as school principals should act on issues of inequity and infringement of social rights. In this regard they argue that instead of defining injustice in terms of its absence, it is important to grasp, creatively as well as analytically, what the presence of social justice might be like (e.g. instead of defining social justice as a state of "non-existence" of, for instance violence, the question should rather be what is the positive meaning of a harmony). The influence of the principals' praxis towards institutional racism, gender discrimination, inequality of opportunity and access, and inequity of educational processes is vital in eliminating injustices and promoting equity and social justice practices (Brooks & Miles, 2006), notwithstanding an impressive suite of policies for a more just education system (Pendlebury & Enslin, 2004:32). They believe that educational and political inclusion as interdependent entities form the core of social justice as "[j]ustice in procedures and the achievement of socially just outcomes are intricately related."

Social justice in education is not merely an idealised theoretical notion but should emphasise the social realities of the situation within which social justice must be achieved, social justice as a "geo-historical situational bound construct" that allows a recurrent *re*-construction (hyphen and emphasis added), without foreclosing future forms (Nieuwenhuis, 2010c) of social justice or social injustice. Freire (2007b:17, 37) coined the term *conscientização* (critical consciousness) that enables teachers and other role-players to take action against oppressive elements of social injustice in schools in order to create a culture of teaching and learning as a social, political, and economic endeavour.

The discussion thus far has dealt with the conceptualisation of social justice. In the absence of one overarching definition, the view of Cambron-McCabe (2010:41) is very apt: defining social justice as such is not essential, but the focus should rather be on the examination of the theoretical constructs of social justice that characterise the nature of social justice work.

2.3.3 Theoretical constructs of social justice

Constructs are regarded as an idea about social justice that is formed by combining several pieces or constructs of information in the concept such as social justice (Bullen, 2003:333). Griffiths *et al.* (2003d:47) is provocative when asking why care about theories, especially if the interest is on the action of social justice and not primarily on its philosophy? None the less theory guides practice and practice informs theory. Therefore theoretical constructs of social justice are undoubtedly important for a study of human society and the operationalising of social justice.

A construct or constructs have been deliberately and consciously invented or adopted for a special scientific purpose or theoretical framework (De Vos *et al.*, 2005:29). This will involve a discussion of social justice as commutative, distributive, retributive and punitive justice. The constructs of contributive, prospective, transformative and restorative justice will further inform the theoretical underpinning of social justice. Onuoha (2007:66) also lists political, economic and transitional justice to the seven that will be discussed. These three will only be referred to as they relate to the seven that have been identified as relevant to this research. What is important about the categorisation of justice is that they are not mutually exclusive, but according to Onuoha (2007:66) reinforce each other because he argues, there might not be distributive justice if there is not also procedural justice.

2.3.3.1 Social justice as retributive or punitive justice (just punishment)

In terms of social justice theories, institutions of criminal justice have contributed the ideas of due process and of equity in the dispensation of justice (§2.2.2). Du Plessis (1978:507) states that the core of justice, “*juridiese*” or “juridification,” as Brand (2005:22) and Liebenberg (2005:140) refer to legal justice processes, is retribution. It is retaliatory and is a process concluded in courts and through the legal fraternity. Miller (1999:96) claims that procedural justice is primarily a criminal justice process although procedural justice will not necessarily result in just outcomes. Goodwin (2007:410), in writing on retributive justice, contends that legal justice can be thought of as the distribution of harm in proportion to demerit, ironically a deserved justice. Theories of retributive justice include proportionate punishment of the offender’s moral iniquity and his or her infliction of harm on society with concomitant responsibility and guilt of the individual offender. Goodwin (2007:410) argues, as did Miller (1999:96) that retributive justice is closely associated with revenge and mere retaliation, albeit retributive justice holds that guilt should be established prior to punishment through due process and consensual legislation. But, argues Onuoha (2007:83), this system of punitive justice portrays the parties as winners or losers which minimises the impact of the experiences of the parties.

Underlying the criminal justice system is retribution vis-à-vis African traditional mechanisms of restoration and reconciliation. Retributive justice is about punishment that is aimed at vengeance and not reparation to either the victims or the reparation of their relationship with the victims and their community (Kasaija, 2007:54-55). Punitive justice is about the removal of the offender from society, not of restorative measures and reconciliation with the larger society by putting in place “all manner of physical, social and emotional barriers.” The offenders in a retributive system have only themselves to think about in considering the consequences of their deeds, no consideration of the victims or the community, the only principle that is satisfied is an eye for an eye, a desire for vengeance, of getting even through what a society, through the legislators and the judiciary, view as morally fit for criminal offenders (Kasaija, 2007:55).

Retributive justice as a system of just punishments should take account of the social justice element of commutative justice regarded as strict justice.

2.3.3.2 Social justice as commutative and as communal justice

Commutative justice as fairness of mutual agreements

Commutative justice is primarily about collectivism as opposed to individualism, for the common good of a society, which hinges on the collective psyche and the fairness of mutual agreements they make (Ferree, 1997:9; Kurland, 1997:ix). Public institutions ought to make all human society conform to the needs of the common good, agree in this commutative sense to the common good, that is, to the normality of social justice (Ferree, 1997:18). Commutative justice advocates the believe that it is possible to build a society on the common goodness and core values contained in liberal democratic constitutions such as the USA and South Africa (Haworth, 2004:261). Haworth purports that these core values are society’s responsibility to provide its citizens with equality of opportunity, material well-being and an opportunity for individual self-fulfilment. This responsibility operates on the principles of fairness, justice and compassion.

How does one arrive at such a very vague object? Ferree (1997:27-30) describes the following principles which hold primarily that social justice and its commutative construct is about a fair collaborative effort visible in the mutual agreements taken in institutions of society: common agreement needs more than one individual to maintain the outcomes of that agreement; every action must be taken in groups to be virtuous; a person’s very nature is social with regards the common good of mutual agreements (labour- or ballot box-contracts); the individual’s social justice duty is the duty to organise, promote and support others through specific acts of social justice. Ferree (1997:10, 14) maintains that each person who refuses to perform these specific acts of social justice, at his level of the institutional hierarchy, will fail against social justice. Social justice demands - not merely requires - an act of will, “management, through agreement of purposes and wills... to offer the greatest possible number... a suitable means of livelihood.”

On another level commutative justice can be regarded as a justice that is evident in identity construction that happens in the interactions of individuals, regardless of race, class, and gender, in fulfilling their potential based on the principle of the individual's self-realisation in a community (Dantley, 2005b:662-663). Dantley continues to explain that it is about the building of individual identity and simultaneously that of the community, serving commutative purposes that bring about a greater understanding through interactions, shared experiences and self-actualisation with others.

Ubuntu as commutative justice

Commutative justice is self-actualisation that is reminiscent of the *Ubuntu* principle (Walker, 2003:181). *Ubuntu* differs from the traditional Western European thought and world view in that it is about 'I belong, therefore I am.' In belonging, human connection is at the heart of what it means to be a person. *Ubuntu* is a word from the Southern African Nguni people according to Nafukho, who cites other Southern African origins of the word as well (Nafukho, 2006:409). *Ubuntu* means a dedication to a common humanity, a fellow-feeling of kindness and is the spiritual foundation of nearly all African societies. It is regarded as an African worldview enshrined in the maxim *umuntu ngumuntu ngabantu*: a man becomes a man through fellow human beings (Nafukho, 2006:409). The inherent respect for the particularities of the beliefs and practices of others is emphasised by the notion of *umuntu ngumuntu ngabantu*: man is/becomes human through other human beings. This form of individuality and communality leads the participants to move from "solitary to solidarity, from independence to interdependence, from individuality *vis-à-vis* community to individuality *à la* community" (Nafukho, 2006:410). In traditional African education *Ubuntu* articulates as having a basic respect and compassion for others in society and it provides a rule of conduct or social ethic. Like Kurland, Ferree, Rawls and Miller who view man as a human being who is *per se* a social being, *Ubuntu* also recognises that man prefers to be with others according to the following three belief systems:

1. *Religiosity* (spirituality): *Ubuntu* is regarded as a religious act focussing on character formation and regarded as the cornerstone of African traditional learning taught through African traditional education. Traditionally African people use ancestors as mediators between themselves and God or a god.
2. *Consensus building*: Traditional African culture has an unlimited capacity for the pursuit of consensus, reconciliation and cooperation often resulting in lengthy discussions, called *indabas*. Respect for the existing hierarchy is important, but more important is equality of opportunity to voice one's opinion until a consensual agreement, group cohesion, is reached. African dispute-building processes concludes significantly with the celebration of *omulembe*, "peace"; *obulala*, "togetherness"; *umoja*, "oneness"; *amani*, "peace"; and *simunye*, "we are one" or "unity is strength". This is akin to commutative justice and regards the rights and opinions of

individuals and minorities highly in building group or team cohesion. The consensus principle of *Ubuntu* calls for an authentic respect for individual rights and cultural values that are visible in an honest appreciation of difference among African and non-African cultures.

3. *Dialogue*: Dialogue is the third element of *Ubuntu* that gives recognition to discursive abilities, the power to talk or a capacity for dialogue, in a specific family, community and society. Notwithstanding the current changes in the *Ubuntu* culture and the concomitant violence in many contemporary African societies, *Ubuntu* serves to inspire man to expose himself to others and in this process to encounter differences of humanness and diversity that will inform and enrich their own and that of other cultures.

Nafukho (2006:410-411) states that in an *Ubuntu* culture the notion of individualism that supersedes the community is unthinkable as persons are not regarded as a statistic, figure, number, characteristic, conduct, or function, but rather acknowledges and respects every individual in the community. It rather promotes social networks, norms and trust that should enhance an individual's productivity and thereby enhances the community and society.

2.3.3.3 Social justice as contributive justice

Miller (1999:21, 33) perceives social justice as a social virtue that stands in relation to what you are indebted for and vice versa. Contributive justice requires an agreement amongst people who treat each other as equals contributing to the welfare of each other. Miller thus sees social justice as much more than mere a distribution of justice (Miller, 1999:2, 3), nor does he equate social justice merely with retributive justice or a justice of punishments. A culture of social justice is about a higher order than the criminal justice system, but he accedes that a theory of justice depends on the state as the primary agency that is able to bring about social reform that is just to all citizens (Miller, 1999:13).

The role of the state in contributive justice

In a social justice state then, the state itself can be judged according to social justice principles as it is not only the individual citizen that must adhere to the rules of the state, but also the institutions of the state. It follows that in a co-dependent relationship that collaboration will set in motion actions to realise a society's aims, thus contributing according to desert, justice that is done "by way of reward an equivalent to the contribution he makes" (Miller, 1999:28). Miller's theory on social justice can be used to evaluate any process or outcome by determining whether the outcomes are consistent with social justice principles of need, desert and reward, or whether actions impede a person's needs or form a barrier to function successfully, wilfully or not, or if it interferes with equal opportunity or conduct.

It seems as if Western cultures specifically promote the notion of human beings as economic entities within nation-states, that equate their value merely in monetary terms, either contributing to or draining society (LaNave, 2005). This thinking in monetary terms is evident in

the way political and legal systems tend to operate in the belief that 'rights' are a result of human decisions, something that one or other body can hand out or give, and that same body or another can take away. This notion of who has the power to give and who has the power to take away is evident in Pendlebury and Enslin's (2004:39) argument that governments cannot be expected to deliver all the capabilities (giving, providing of) although they are morally obliged to see to it that they are developed. A statement that seems contradictory, especially in view of their statement that those governments who fail this moral obligation "where resources are sufficient, failure to develop central capabilities is a problem of justice."

Citizenship and democracy as contributive justice

Dantley (2005a:15) asserts that a leader who operates by faith will, through dialogue and problematising issues, such as the position of privilege, the traditional hierarchies, asymmetrical relations of power inherent in the traditional notions of school leadership, work diligently to bring about change grounded in justice and democracy in the school and the broader community. In discussions and explanations on justice as distributive, retributive and contributive, education not only creates social class but is critical in forming the way that such a society works (Soudien, 2006:107) He argues that education is essential to ascertain economic, political and social change and improvement. Social justice as human action towards the common good should also account for distributive justice, because in agreeing communally about what constitutes the common good of a society, this common good needs to be distributed fairly and justly.

2.3.3.4 Social justice as distributive justice

Scholars on distributive justice concern themselves with discussions on issues that at times were at the margins of the consciousness of researchers but currently are moving to centre stage, such as citizenship and democracy. These social justice issues are known as LGBTIQ (lesbian, gay, bisexual, transgender, intersex, and queer). People who contribute to social change and researchers need to seek answers why the research community and governments are still unable to address issues of difference such as sexuality and gender, globalisation and internationalisation, migrancy and xenophobia (Koschoreck & Slattery, 2010:156, 166; Soudien, 2006). North (2006:510) argues that discourses on distributive justice often fail to examine social structures and institutional contexts, nor does they question oppression, institutional constraint on self-development, self-determination and domination. This misrecognition then becomes visible in the actions that surround distributive justice where those who do not have power, those who are oppressed and are inhibited in possibilities of self-development and self-determination are again being marginalised by the exact forces of distributive justice that were intended to be an enabling force. Soudien (2006) is concerned about the emergence of a new kind of citizenship, perhaps because of marginalised or globalised citizens, that is neither national nor cosmopolitan, but appropriates multiple identities, rights and obligations associated

with citizenship. This new kind of identity is a complex configuration of common community institutions, national and transnational NGOs, regions and alliances.

Institutional social justice practices

Rawls (1999d:47-48) considers justice only as a virtue of social institutions or what he calls “practices”. He explains that “practice” is used as an encompassing term meaning any form of activity within a system of rules that occurs in offices, where roles are allocated, penalties and defences are extolled that gives the institution or practice by the people associated with it, its formal structure. It is in these structures that powers, liabilities, rights and duties are assigned or distributed. The two principles Rawls offers are:

- Firstly that each person who takes part in the practices of an institution, or who is affected by it, has an equal right to all liberties or freedoms distributed to any other practicing member, known as the Equal Liberty Principle.
- Secondly, it holds that any existing inequalities are arbitrary and attached to the positions persons hold in the institution. These positional inequalities are allowed because the inequalities equated with the position are open to all under fair and equal opportunity, distributed equally, and is known as the principle of Equal Opportunity.

Meritocracy is primarily based on capitalism, on exchange. It is based on the presumption that individuals gain rewards in proportion to their talents or merits, an approximation of the measure of an individual's talent and therefore those who gain most have deserved the most (Gelderblom, 2005:118; Goodwin, 2007:43). Rawls himself calls it a procedural theory of justice, one that is correct or fair and therefore the outcomes are likewise correct or fair (Rawls, 1971:86). Goodwin (2007:406) argues that Rawls is at fault by assuming that his theory of distributive justice can be purely objective and universal, especially where cultural politics are at play.

Fisher (2007:166) advances recognition of ownership and the redistribution of goods as the ability to empower and to develop a self-identity and self-determination in acknowledging the cultural politics of social institutions, such as schools. The aim is to sensitise all to an ‘otherness’ of human beings, including those that has been branded ‘other than us’. Miller (1999:1-3) argues that social justice as distributive justice is about the distribution of good (advantage) and bad (disadvantage) and more specifically with how good and bad should be distributed in society. Social justice requires that each person agrees to treat others as equals and with the dignity each human being deserves (Miller, 1999:24).

Scanlon (2003:30) prefers to speak of fairness as a property of processes rather than distributive justice in which equal consideration is given to the interests of people, interests that require tolerance in accepting people and permitting their practices, even when strongly disapproving of them (Scanlon, 2003:187). The humanist desire to eliminate inequalities is

motivated primarily by humankind's concern for the plight of those who have less than them, and therefore redistribution is about alleviating the suffering of those who have less. However, this approach towards redistribution allows for great inequalities in wealth, where those who have more are granted an unacceptable degree of control and power over the lives of others (Scanlon, 2003:31).

Nieuwenhuis (2010c), as well as Miller (1999:x), argues that social justice in education should not be about idealised or utopian theoretical musings, but rather that the social realities in the education environment where social justice must be achieved, should be conceded to. For social justice has always been and must always be, a critical idea, not only challenging individuals to change, but also to bring about change in educational institutions and praxis in order to create greater fairness. Nieuwenhuis (2010c) believes that 'a geo-historically' situated construct justifies social justice. This construct he argues, opens up the possibility of continuous reconstruction and redistribution. The difficulty of how to determine the circumstances under which reconstruction and redistribution should occur are compounded by inequalities such as discrimination and inaccessibility, hampering the notion of continual reconstruction (Miller, 1999:68-70) and fair distribution.

The perpetuation of discrimination and inaccessibility still happens notwithstanding the involvement of just individuals (Ferree, 1997:vii). The efforts of these individuals, however, lead to the realisation of a politically just, democratic ideal that seemed unattainable. Due to civil rights movements in South Africa (1994), the USSR (1990) and the USA (1950), the walls of disregard and discrimination tumbled down, and through the ballot box it resulted in the establishment of representative governments. However, according to Ferree (1997:vii), moral omission hampers just movements, because fair distribution on which a political democracy ultimately rests seems to be unachievable. He believes that tragically the result of this omission in some respects will lead to a partial reversal (which could become complete) of what has been achieved, and cites the South African situation as an example of the growing gap between haves and have-nots along colour lines that might soon stir calls for a vengeful "justice."

Under which circumstances does social justice necessitate an equal distribution of good or advantage?

Need, desert and equality

Miller (1999:207, 210) is the proponent of social justice as need, desert, and as equality. Need is about a legitimate claim or one could call it a human right that each person has that must be fulfilled to prevent harm. Desert is about a claim that one has deservedly earned through performance (Miller, 1999:134, 141), whilst equality is about the social and political ideal of a just society in which benefits such as schooling and other basic human rights should be distributed equally (Miller, 1999:232). The principle of social justice in education in a so-called 'solidaristic community' is about need, desert and equality.

Pendlebury and Enslin (2004:31) believe that social justice is largely about distributive justice. They propose that redistribution of educational goods and access to them are at the heart of social justice and is relevant in a post-apartheid South Africa. Educational and political inclusion are central to the achievement of social justice in and through education (Pendlebury & Enslin, 2004:32). The need of fair distribution, where each member of such a solidaristic community is obliged to assist in meeting each other's needs, in proportion to ability to do so (Pendlebury & Enslin, 2004:34). With regard to just deserts they argue that in a "relationship of instrumental association, desert is the principle for just distribution" where each member of an organisation receives a reward corresponding with his or her contribution. Need, desert and reward in an educational setting that strives to attain social justice, should be concerned with just procedures (Pendlebury & Enslin, 2004:36). The circumstances then should ideally require institutional and other structural conditions or actions (Rawls, 1971:86) that promote just procedures, self-determination and development.

This capacity for self-development is, according to Pendlebury and Enslin (2004:36), restricted because of marginalisation and powerlessness. A restriction is evident in structural forms of oppression in institutions, as access to resources and opportunities for development of capabilities and capacities are often intrinsically or extrinsically limited. In these structural forms of oppression, marginalisation is evident when categories of people are excluded from meaningful participation in social life, rendering groups vulnerable, deprived and even annihilated. Through exposure to inclusive democratic communication, an understanding of the social fibre of communities and access to information is possible (Pendlebury & Enslin, 2004:39). It is important to note that need, desert, and equality, as Miller argues, refer to fair and just outcomes that cannot be equated to procedural justice, which is separate and distinct, often associated with retribution and just punishment (Miller, 1999:94).

Social justice practices should contribute to prospective justice because education and the institutions in which social justice is lived, should always be about a better future.

2.3.3.5 Social justice as prospective justice

Prospective justice and the rebuilding of communities

The argument for institutional reform or prospective justice is that in a reconciliatory society such as South Africa, redress of past injustices is less important than a future built on fairness of social co-operation, according to Drange, writing on her experiences of the South African Truth and Reconciliation Commission (Drange, 2002:50). Prospective justice is about rebuilding and the creation of a fair future through reform, especially after political upheaval. Drange (2002:127) suggests that cross-racial contact in communities divided by the past will enable a prospective justice to build a democratic South Africa.

Although LaNave (2005) argues for an inclusiveness with regard to social justice as prospective justice, he considers deeper issues to be at stake, namely the question of the relative power of

justice and injustice, of care and the failure to care, such as apathy and hate, of good and evil, of life and death, all of which are greater than the individual crossing boundaries “in the realms of existence beyond ourselves.” Sharing of a common goal is important, but it is insufficient because as individuals’ goals are often difficult to obtain because of humankind’s relative powerlessness. It is as a community of praxis that they believe they can make a difference to the future of those that they teach and those who form part of a teaching community.

Dantley (2005a:13) adds the concept of a ‘prophetic’ possibility of stating what will happen in the future that will enable educational transformative leaders to not merely teach but to actualise change in society, to facilitate a visioning process based on critique, possibility and on hope. The most powerful source of this integration of religion and criticism according Dantley (2005a:13), is the stirring and intense messages of the biblical prophets who “spoke to their times” about traditions of speaking or dialogue, speaking out against inconsistencies between what is valued and what is visible through actions or non-actions. In critiquing the pedagogy of religious essentialism, cultural and spiritual intolerance Van der Walt *et al.* (2010:29) claim that legislation does not provide opportunities to help learners understand the religious differences that they as adults will have to engage with in future. Intolerances should be addressed if social justice is not to remain but a dream (Nieuwenhuis, 2010c).

Prospective justice and teaching as a moral construct are built on theories of management, administration, organisation and leadership, known as a pedagogy of leadership, and are based on an ethic of care and the moral imperative of improving practice (Brooks & Miles, 2008). The improved practice focuses on student outcomes of minorities, the economically disadvantaged, female, gay/lesbian, and others who have not traditionally been served well and who need a greater ethic of care (Marshall & Oliva, 2010:6).

An ethic of care

This moral imperative is aptly described by the Hindu poet Rabindranath Tagore who depicted his own journey as: “I slept, and I dreamt that life was joy. I awoke, and I learned that life is service. I served, and I found that service is joy” (LaNave, 2005). This notion of service is also evident in the work of Van der Walt *et al.* (2010:35), who argue that although much has been written about spirituality and confessional pluralism, it lacks serious considerations as possibilities to religious understanding, tolerance and the ability to serve. For these scholars religious observances in education are aimed at teaching learners to understand the value and practice of such rituals.

Two other statements relevant for this argument are that of Dr. Martin Luther King, Jr.: “Let us believe that we have cosmic companionship and that the arc of the universe is long, but it bends toward justice. Truth, crushed to earth, will rise again. No lie can live forever.” The second statement is that of Mahatma Gandhi: “[w]hen I despair, I remember that, all through history, the way of peace and love has always won. There have been tyrants, and for a time they can seem

invincible; but in the end, they always fall. Think of that - often - whenever you are in doubt that the way of peace and love is God's way, the way the world is meant to be. Then try to do it God's way".

Dantley (2005a:12) postulates that hope is the actualisation of faith, calling faith creative, constructive, liberating, emancipatory for hope to be legitimate, contextual and possible. Freire (1998:69) maintains that because of our contradictory nature it is resistance, and not hope,) that should be grounded in faith to give rise to hope in relation to revolutionising and rethinking social and political existence that will bring about greater fairness and equity of opportunity; it is educational visionaries who have faith, hope and the restructuring of education in mind that can bring about change. Van der Vyver (2011:59) refers to to duty an ethic of care as one that includes service leadership and support to those who are taken care of.

In the discussion of Van der Walt *et al.* (2010:36-37) about six structures of religion and its educational use, the fourth and sixth structure are relevant in a discussion of social justice as prospective justice: religions have a philanthropic or caring layer, love of humanity and that of charity, whereas the responsibility of education in this regard is to help learners' understanding of how to care for others and develop a sense of moral duty and charity. The sixth dimension is about spirituality that leads these scholars to conclude that understanding and tolerance among adherents of different religious groups should, particularly in education, include understanding of religions at their deepest level, the level of spirituality.

LaNave (2005) strongly believes that ultimately justice is stronger than injustice, that love overcomes all failures to love, that good will endure any evil, and that life will rise from death. His conclusion is based on an authentic human rights perspective that views justice as a way of life, a way of lovingly relating to others in all aspects and dimensions of our lives.

This way of life in justice for others should include action for justice that is evident in educational settings.

Prospective justice as reparation

Nieuwenhuis (2010c) postulates that social justice cannot be legislated or achieved through international conventions or declarations, all of which are important instruments in the promotion of social justice, but it should also be evident in the hearts and minds of people, it must be lived. The state should address social justice issues (Nieuwenhuis, 2010c; Pendlebury & Enslin, 2004:40). It is at a systemic level that the state should play a role, because success is only possible if the system addresses social justice in a more comprehensive and holistic manner. The state and those who execute policy should accept that social justice is not an external condition or system, but it is an effort to reinvent and revolutionise each generation being born again and again into social justice. Human agency and state ownership is important as it enables self-development and self-determination (Pendlebury & Enslin, 2004:40).

The South African history is marred by social injustices but is also witness to a long struggle to realise the ideal of social justice (Nieuwenhuis, 2010c). Whether success will be seen in the protection and advancement of social justice will depend on the will and ability of all to work towards shaping social justice in all spheres of society and whether those who are responsible for the just actions are truly creating a personal agency that supports social justice (Rawls, 1999f:232). Nieuwenhuis (2010c) argues that in accepting the geo-historical history of the South African liberation struggle one has to contend with efforts of reconciliation and attempts to create social justice. The implications are that the state and communities should be responsible for reparation through reconciliation, autonomy and interdependence. Structural forms of oppression should be abolished to enable access to resources and opportunities. Nieuwenhuis (2010c) warns that in the process of restoration and reparation, the state should take care to not create new forms of exclusion leading to new forms of social injustice and oppression.

From prospective justice to transformative justice is but a small step, as the seeds for transformation are embedded in a future vision that is better than the current dispensation.

2.3.3.6 Social justice as restorative justice

What is restorative justice?

Restorative justice, as is the case with social justice, does not have a universally accepted or precise definition (Onuoha, 2007:73). White (2003:144) postulates that in many discussions on restorative justice and its orientations and imperatives, a distinction is often made between retributive justice and restorative justice, as if by distinguishing the one from the other, one will be able to understand restorative justice better.

Notwithstanding this dilemma in an attempt to capture the meaning of restorative justice, White's (2003:140) view is that crime remains a violation of people and their relationships. The act of violation demands a form of remedy of just grievances, and therefore the restorative process should include the victim, the offender, and the community, and not only the offender and the victim. This process then is a search for a remedy that will be about the reparation, reconciliation and reassurance of the relationships. White (2003:140) in writing on juvenile offenders, said that in addressing juvenile offending, both in terms of crime prevention and juvenile sanctioning, needs to be conceptualised as a community task. The *process* of restorative justice is one of involvement, the involved persons and allowing these involved persons to *collectively* identify and address the "harms, needs, and obligations" to bring about restored relationships as far as possible

For Onuoha the two operative words are 'process' and 'collectively' because these two key words incorporate the values of restorative justice. Restorative justice is a problem-solving approach to crime which involves the parties themselves and the community in general, in an inter-active relationship and legal environment (Onuoha, 2007:74). Onuoha argues that this definition adds another dimension to 'process' and 'collectively' in that it equates a role to

statutory agencies. He believes that from this definition it is obvious that restorative justice is not an alternative for or a replacement of the current criminal justice system, “but a system of justice that offers a new way of looking at justice” that involves both victim and offender.

The core values and principle of restorative justice is the principle of reparation. It is about a common vision that the outcome of justice intervention, whether formal or informal, should be a solution that aims at repairing the harm done and in doing so, strengthens the ability of both participants in the justice process (Onuoha, 2007:74). This justice process is important and should include a systemic shift that will affect the aims, techniques, procedures and values of criminal justice. Onuoha (2007:74) discusses six basic assumptions that inform the restorative justice movement in that crime or an offence:

- originates in social conditions and relationships in society and communities,
- and its prevention is dependent on communities taking responsibility for remedying those conditions that caused the crime,
- to be addressed, should involve victims, offenders and the community,
- should rely on a justice system that is flexible and creative in its response to crime,
- relies on partnerships between justice agencies and communities to address crime,
- should incorporate multiple objectives of the parties involved in or affected by crime.

Onuoha (2007:74-75) poses questions to those who have to decide on restorative justice that should also be asked by educational leaders: Who has been hurt? What are their needs? Whose obligations are these? Who has a stake in this situation? And, what is the appropriate process to involve stakeholders in an effort to put things right? What does justice mean or look like for the offender or how do those who are responsible for the governance of schools conceive of justice at least within the context of the education system?

The discussion on restorative justice makes it clear that it is not about the crime or a law that is breached, but “rather it focuses on harms that are done to individuals and communities. Restorative justice empowers both the *victim and the offender*” [emphasis added] to address harms in order to rebuild relationships and heal communities (Onuoha, 2007:75). Restorative justice is about restoration of the victim to his or her former state before that crime is committed. Onuoha acknowledges that it is almost impossible to restore a victim either physically or materially to a position before the crime was committed but restorative justice could assist the process to transcend violations of crime.

Supporters of restorative justice insist that the victim also needs rehabilitation (Onuoha, 2007:75) as the aim of restorative justice is to undo the harm caused. These supporters accuse the retributive criminal justice system of merely looking at the symptoms of a deeper infection in the offender and not to the infection itself that should be the root causes of offending. With

reference to the oil companies in Nigeria, Onuoha argues that they have in their legislative rulings on compensations failed to take into account the social interaction process and the relationship that exists between the oil companies and the host communities. This could be applicable to education in that the punitive system, even in schools where educational law or legal actions have become the norm, has also lost track of the social interaction process and the relationships that should exist in schools and their communities. He further argue that the punitive system's intent is "not ... to rebuild and restore, but to humiliate and punish."

In summary a table of White's (2003:144-145) assertions it will suffice to indicate the differences between restorative justice and retributive justice (Table 2.2):

	Retributive justice	Restorative justice
Historical view	Backward looking, grounded in past.	Progressive and future looking.
Notions or concepts	Guided by notions of blame, guilt, individual responsibility and punishment for past harms.	Guided by notions of reparation, restoration community harmony and problem solving.
Primary focus	Essentially retributive focussing on punitive measures as a deterrent to future crimes.	Promotes harmonious relationships: restitution, reparation, reconciliation of offenders, victims and community.
Aim	Punitive system to provide 'just deserts' for any harm committed.	Emphasis on repairing community relationships.
Objective	The victim is at the centre of the criminal justice process.	Victim is restored, shame and denounce offenders; empower community.
Approaches based on		1 Community involvement 2 Moral categories 3 Strategic assessment of events.

TABLE 2.2: Comparison between punitive justice and restorative justice

These tensions could be resolved through restorative justice mediation processes.

The mediation process of restorative justice

Onuoha (2007:76) argues that restorative justice has many models through which it could be applied to either conflict situations or offending behaviour, whereas court systems lack the possibility of creativity and restitution building. Onuoha believes that the most prominent model of restorative justice is the "victim-offender mediation" or "victim-offender conferencing," "family group conferencing," and "circle process," supported by South St. Paul Restorative Justice Council (1996). He argues that the selection of a model for the intervention of restorative justice is dependent on the kind of offence, the parties and the cultural context. One of the goals of the restorative process is that it should be culturally appropriate, adapted to the needs and cultures of the victims and families involved.

But one should not assume that all restorative models necessarily lead to a restorative outcome. In the case of the Niger Delta, Onuoha (2007:86) argues that the restorative justice is

a process, a philosophy, a set of principles, a set of core values that leads to a restorative outcome. In order to reach a restorative outcome there should be a pool of committed facilitators, advocates and restorative justice enthusiasts. Furthermore the communities will also need to be made aware of what restorative justice represents. Onuoha (2007:76-86) proposes a restorative justice approach as opposed to the criminal justice approach. In the words of Riehl (2000:71) “[w]hen wedded to a relentless commitment to equity, voice, and social justice” leaders in education make sense and promote inclusive cultures and practices in schools, build positive relationships outside of the school to foster a new form of social justice praxis, a restorative culture.

Tensions between retributive and restorative justice

Kasaija (2007:54) on writing about the International Criminal Court’s (ICC) involvement in Northern Uganda against the Lord’s Resistance Army (LRA) brought the tension between local restorative approaches versus international retributive approaches to the fore, a debate that is also part of the restructuring of the current judicial system in South Africa. In being privy to do transcriptions of a colloquium of NICRO during 2007 on juvenile sentencing and imprisonment, this researcher became aware of the debate (unpublished) from which a few extracts are used. The first speaker talked about African practices and their values that should be incorporated in the formal judicial system:

African practices that we can incorporate into the criminal justice system ... haven’t been very successful ... in reintegrating or rehabilitating ... We shouldn’t be adopting practices of Europe or America ... critically look at the criminal justice system ... shift their paradigm...

The second speaker discussed the effect of the formal legal system on offenders:

... our formal system, they don’t get to payback whatever it is what they have stolen from ... we don’t take those cultural, uhm, cultural aspects into account to say that this is what matters more to this person, and this is what we should do and how it should happen ... most of the matters where they sit down and hear matters, they hear it and finish. They’ll make sure that it is started and finishes ... reason why we cannot embrace indigenous practices, is that for most people we are disconnected to our cultures. We refuse to identify with them. We have lived in the towns, we have no idea where it is we really came from, and that of course has also contributed by the facts of AIDS and HIV...

The third speaker spoke on indigenous knowledge systems and African spiritual values:

Spiritual values have been replaced with materialism and consumerism and disconnection with the land has lead to poverty, and human displacement. ... of Africa over the decades, this relationship has become spurned and forgotten, and indigenous knowledge and practice regarded as inferior. This process has been a dysfunctional and debilitating one ... crises of

humanity of the African peoples. There is a moral injunction to restore the mental and emotional imbalance that African people have suffered due to the systemic breakdown of their identity ... Indigenous knowledge and practice can play a strong role in particularly certain community groups.

The fourth speaker was a chairperson of a House of Traditional Leaders who preferred to use the word traditional systems, rather than justice systems:

... traditional or reformatory justice, which could be construed to mean such kind of justice may be inferior, may be of a lower level... I'd rather have NICRO use not justice but traditional systems. I'm not a law student, I'm a traditional man.

Communitarian restorative justice is where justice is implemented in and by local communities, and draws on restorative justice principles to promote reconciliation (Kasaija, 2007:55). Instead of centralised state-administered courts meting out formal justice, less formal local committees must take control of justice, in which, as in African culture, broad participation in the process is encouraged, reconciliation between victims and offenders is promoted and a culture in which the offender is welcomed back into the community after serving his or her fair punishments is created. Punishments should include community service, restitution and shame, elements that are “potent tools for moral re-education and reconciliation” but also accounting for traditional penal confinement (Kasaija, 2007:55). The traditional African sense of justice is not simply about applying the retributive aspects of justice in isolation, as it is in the Western model. Retribution is but one part of the overarching process that also encompasses rehabilitation, reconciliation, compensation and restoration (Kasaija, 2007:55).

Restorative justice counters adversarial conflict resolution, it seeks to harness the power of relationships to strengthen accountability and support mechanisms within civil society (Morrison & Ahmed, 2006:210). The aim therefore is the provision of a platform for transforming conflict and rebuilding relationships, placing the restoration of relationships and not the consideration of rules in the centre, persons and not regulations are central to this kind of justice. The focus is on repairing the harm caused, and more often than not, the harm is rather the abuse of relationships in interpersonal, intra-group, and inter-group conflict, than in possessions. Similarly, Du Toit (2005:61) argues that the human factor in human development is vitally important to ensure justice, restoration for people who seek healing associated with intense suffering, oppression and violence. Another example from the NICRO colloquium explaining restorative justice as an African cultural heritage, explains the influence of an offender on the family and community:

African culture, has always been a word used ... where we say 'yes there's a problem, but 'asikolome', 'Let us talk'. Because when we talk, lots are happening in between... heard very clearly the cleansing and the healing, ... so much interaction between the chiefs overseeing the

matter, the offender, the offended, the parents, the relations - it's a village thing - an offence is not something that is individualistic, it is just one person who's committing it ... The offender might not be saying anything, it might be his uncle, it might be his father, speaking on his behalf. Because it carries more weight... I notice that they gave them the education that when I do something wrong, I'm not the only one affected, my family will also be affected. And it gives them reason to reform. ... a way of making juvenile offenders realise that their offences affect everybody else, we would actually achieve more than... isolating them and making them feel they're guilty and guilty for life and that's it for them.

The critical and theoretical guideposts on restorative justice in the service of social justice will, hopefully, emerge as a transformed future.

2.3.3.7 Social justice as transformative justice

Education leaders who root themselves in faith, establish a sense of hope and reform in the educational process (Dantley, 2005a:15). These leaders are able to read the world and create just teaching and learning classrooms that are transformative, principled and purposive.

A transformative framework for social justice

The transformative framework for social justice is about dialogue and problem-posing issues of injustice that a community have to deal with. It will bring about change if the community diligently work on discursive issues (Dantley, 2005a:15). Transformative educational leaders are those who have faith in and faith to work concurrently alongside the learning community in order to reconstruct schools (Dantley, 2005a:18). For these leaders it is not about perpetuating the current situation, but it is engagement with, *inter-alia*, race, class, and gender issues that disguise the hope of marginalised and oppressed peoples. In so doing they are reflective, considerate and morally transformative intellectuals who are intrinsically involved, examining the origin of their own notions of morality, community, being and meaning. Dantley (Dantley, 2005a:18) believes that this process is a prerequisite for a school to operate from an ethic of care, faith and morality where the voices of many will be heard.

The use of words, the lexicon of meaning “the vocabulary of a person” (Soanes & Stevenson, 2008:820), is where issues of class, race and marginalisation are apparent. The realities of the class struggle are ‘represented’ by ‘ideas’, which are ‘represented’ by words. In scientific and philosophical discourse, the use of specific words, concepts and categories are instrumental to knowledge creation and are part of a specific geo-historical space and time. Walsh (2009:68) construes language squarely in the realm of ideological struggle (in this case then language not as a constitutional right as is part of a current debate in South Africa, but merely the use of words) where the ideology reproduces domination as well.

Educators who are not merely parroting the state’s notion of democracy through education and who want to develop transformative, emancipatory and liberating impacts, should establish

relationships that give recognition to individuals, building human encounters that are meaningful as well as revolutionary (Walsh, 2009:70), built on dialogue that is central to the transformative and emancipatory pedagogy described by Freire.

Transformative leadership frameworks

Cooper (2009:695-697) is of the opinion that notwithstanding the preference for an accountable *lingua franca* in education, the most pressing matter for educators to attend to in classrooms is the increased diversity that presents significant social and cultural challenges. Educational leaders should be better equipped and trained for serving a diverse and changing public, where the intervention of strong leaders is of utmost importance to counter marginalised forces and the perpetuation of inequities: “transformative leadership constitutes a form of liberatory political praxis” (Cooper, 2009:696).

Cooper (2009:697) refers to Dantley and Tillman’s 2006 work, re-issued in 2010 (Dantley & Tillman, 2010:24) that determined three essential components to enhance an agenda for social justice: leadership for social justice, oral transformative leadership, and social justice praxis. These three components link the principles of democracy and equity in proactive ways to the everyday work of school leaders, based on a belief in freedom, fair and moral treatment, and efforts to prevent and remedy socio-economic and political inequity for all people. Risk-taking is involved in a transformative paradigm for social justice leaders in education. They will walk on philosophical and practical roads to further their understanding, an understanding that might lead to the development of new theories, narratives and empirical research that are needed in relation to transformative leadership for social justice (Cooper, 2009:698). Cooper (2009:717) calls for cultural work as transformative leadership and for diversity.

Collard (2007) proposes that leaders should become transformative cultural agents, creating reflexive practitioners, institutions and systems, advocates for new cultural norms that accommodate diversity and redress disempowerment. He believes that this will entail a valuation of “diverse epistemologies”, an acknowledgment of diversity of learning and teaching modes and styles, exploration of various institutional frameworks that could be applied to a specific community, and an attentiveness grounded in care and respect (Collard, 2007).

These new understandings could incorporate new understandings and praxis of social justice as restorative justice.

2.3.4 Synthesis

From the aforementioned discussion social justice can be construed as an ideal but also as praxis: actions for the common good based on moral normative aptness. Although it is not supposed to be the task of government and legislation, it is a political concept in countries that have a history of social injustices, of which South Africa is a prime example, and where social justice is a Constitutional imperative.

- The origin of social justice is derived from:
 - ‘*equitas*’ that is ‘justice’ as equal fairness and from ‘*socius*’ as ‘social’ or ‘companion’
 - an *act* of equal fairness aimed at the common good of humankind.
- Social justice is visible in:
 - the manner in which a specific society is governed through formal and informal laws, norms and sanctions in a particular space and time
 - cooperative relationships with companions, interactions and acts
 - cultural diversity, dialogical integrity and moral debate that can challenge westernised programmes that seek to usurp diverse cultures into global paternalistic economies
 - personal agency and responsibility for social justice
 - acts that engage equally with issues of a life of justice, truth and respect.
- Scholars often apply a particularised lens to understand social justice in contexts of:
 - racial and cultural diversity, equality from a gendered or sexual orientation perspective, democracy and differently-abled viewpoint;
 - particularisation, which, however, creates an environment with no common language that complicates meaningful dialogue and defeats the very inclusiveness of social justice.
- Social justice is enacted in the organisations of society:
 - where effective institutions or organisations of man conform to the norms of social justice that determines the social order and its quality;
 - that determines the duties of each person to care for the common good and in such caring it becomes social justice in action;
 - legislation is frequently believed to be the only vehicle to create a just society and by implication just schools for the common good.
- Social justice as the common good is:
 - a transnational reality maintained by an all-encompassing ethics of social justice praxis based on individual and collective virtues, attributes and values that are morally apt, equally available to the advantage of every citizen;
 - a normative concept about normative networks and moral viewpoints that become embedded in the cultures, norms and ethos of a society and institutions;

- a balancing act, a praxis of care towards cooperation that elevates dignity, status, power and well-being of individuals and the collective in building networks of customs and laws that informs and enhances our understanding of difference.
- The concept of social justice as praxis is:
 - visible in fair and just choices, decisions and characteristics of ‘virtue-as-excellence’ of individuals who are moral, charitable, benevolent and virtuous;
 - about caring, regarding, respecting others so that restructuring of institutions, laws, networks, customs are possible to advance and enhance individual perfection;
 - visible in **redistribution** of social rights and duties, benefits and burdens, material (income) and non-material resources (human rights and dignity), of reward and prestige amongst members of institutions and society;
 - keeping track of injustices, the act of **recognition**, of people who are being marginalised such as LGBTIQ and other differentials who are not accorded due value, equality, justice and fairness because of identity differences;
 - viewed as **social** transformation uncovering systemic and institutional actions and inaction, confronting harmful effects of mis-recognition and mis-distribution;
 - addressing injustices through critical dialogue on difference, human rights and social justice in a caring environment of mutual recognition that will eliminate power abuse by restructuring institutions, reforming legislation and societal norms.
- Social justice as a political concept is:
 - quintessentially about equality, cultural diversity, tolerance, respect for human rights and identity, democracy, idealised communities and a sense of belonging;
 - manifested in anti-movements of a specific injustice such as anti-apartheid, anti-racism, and feminism that act on behalf of those who are oppressed;
 - responsible for the development of a stream of consciousness created by these anti-movements where difference is embraced and in the creation of a compassionate space.
- Social justice as a **democratic** endeavour should be critical about notions of:
 - nation-states socialising the youth into the role of democratic citizenship and nation-building in a world moving from nationalism into a globalised universal nationhood;
 - civic education or education for democracy that should become a priority in school reform and is about the acquisition of democratic skills, knowledge, and dispositions that should form part of the curriculum.

- Social justice as a **human rights phenomenon** is needed in all aspects of the education system and should:
 - respect difference, Africanness and humanity;
 - permeate the management and teaching structures of schools, organisation and praxis in meeting the basic constitutional right to education, protect individual rights of all learners based on respect in communal living.
- Social justice praxis in **societies, institutions** and **organisations** are about:
 - the clarification of judgements and decisions of social forms of justice and injustice that express an underlying valuation of human interactions;
 - an ideal society or institution that has a sense of justice, fundamentally mutually inclusive aims and interests and a right to equal respect and consideration.
- Social justice as an **educational phenomenon** is to be found in educational systems, challenges, praxis and as educational governmental, policy and professional endeavours, such as notions of:
 - waging a war, making revolutions and being transformational to instil social justice in schools that are characterised by the multiplicity of contexts and the diversity of the inhabitants of those contexts;
 - the 'other' whose identities are regarded as outliers in the celebrated dominant culture and who are left on the margins of society and of schools where dynamics of cultural diversity should not be about alienation but about celebrating diversity;
 - principals who should be transformational leaders and moral agents whose values underpin their actions in a cultural diversified educational environment;
 - westernised education systems regarded as all-important, and where indigenous learning systems are disregarded and even frowned upon; notions that have now turned towards African and Eastern philosophies on education;
 - professional development programmes that should be critical encounters on cultural diversity, new-imperialism and colonialism of 'universal' Western values.
- Concepts of **social injustices as social justice phenomena** occur daily in a country that prides itself on having the most advanced human rights constitution:
 - Injustices still deprive individuals of their human rights and dignity and integrated action is needed to change oppressive structures that perpetuate injustices.
 - The achievement of an ambitious agenda for social justice in South Africa is off track as social injustices persist despite an impressive suite of governmental and ANC policy documents for a more just education system and society.

- Generic features of definitions of social justice:
 - Social justice is a challenge: it consists of striving towards the optimal concepts of fairness, equality and human rights in a just society where fair distribution of advantages, assets and benefits among all members is possible.
 - Social justice is aspirational: aspiring towards socially just institutions, societies and the world that emanates from social injustices, competitive market force, economic and political policies and practices of power and oppression that maintain privilege.
 - Social justice is praxis: taking issue with manifestations of equity, identity, achievement gap, democracy, sense of community and belongingness and inclusion in a culturally diverse world of race, gender, spirituality, ability, sexual orientation, the marginalised, ageism and the deep roots of injustice.
 - Social justice as praxis requires leadership: exacting outcomes of social justice that form the invisible part of the cultural environment, the architecture of societies.
 - Social justice praxis creates consciousness and conscientiousness: to understand and apply core values and fundamental principles of social justice.
- Commutative justice as fairness of mutual agreements:
 - is justice towards individuals based on mutual agreement on what constitutes the common good;
 - assigns responsibility to the individual, society and the state according to the principles of fairness, justice and compassion;
 - awards equality of opportunity, material well-being and individual self-fulfilment;
 - is evident in identity construction during interactions of individuals, regardless of race, class, and gender, fulfilling potentialities and building agreed aims.
- *Ubuntu* as commutative justice is a Southern African Nguni word, based on the:
 - *Ubuntu* principle of 'I belong, therefore I am' manifesting in human connections and interactions that are at the heart of what it means to be a person;
 - dedication to a common humanity, a fellow-feeling of kindness formed by the spiritual foundation of an African worldview through social networks, norms and trust enhancing individual and society's productivity;
 - maxim *umuntu ngumuntu ngabantu*: 'a man becomes a man through fellow human beings' and is a celebration of *omulembe* and *amani* (peace); *umoja* (oneness); *obulala*, (togetherness) and *simunye* (we are one/unity is strength/*ex unitate vires*);

- regard for the individual rights and opinions of minorities in building cohesion amongst groups calling for an authentic respect for individual rights and cultural values visible in an honest appreciation of difference among African and non-African cultures;
- principles of basic respect, compassion towards others in **religiosity** or **spirituality** that build character and are taught in African traditional education in a trinity-relationship of humans, ancestors and a Supreme Being;
- **consensus building** through reconciliation and cooperation, and **dialogue** that recognises discursive abilities of all in a specific family, community and society.
- Social justice as distributive justice:
 - creates mis-recognition that is visible in the actions of the powerful towards the powerless, who are marginalised, oppressed and inhibited by distributive justice;
 - often fails to interrogate social structures and institutional contexts, nor questions oppression, institutional constraint on self-development, self-determination and domination.
- Social justice praxis as distributive justice is manifest in institutions in:
 - distributive structures of powers, liabilities, rights and duties;
 - two principles of 'equal liberty' and of 'equal opportunity';
 - a meritocracy that equates rewards proportionally to talents or merits that contests assumptions that those who gain the most deserve the most and *vice versa*;
 - the distribution of good (advantage) and bad (disadvantage) and especially how good and bad should be distributed in society;
 - equal consideration of the interests of all, respect for the interests of others that might differ vastly from a person's own convictions, interests and practices.
- Social justice is largely about distributive justice in that need, desert and reward are acts of distribution:
 - The need of fair distribution where actions are aimed at meeting and assisting each other's needs, in proportion of ability to do so.
 - Just *deserts* is the principle of just distribution where each person receives a *reward* that is equal to their contribution and therefore just procedures should be followed to serve self-determination and development.
- Social justice as retributive or punitive justice (just punishment):
 - Retributive justice is associated with revenge, retaliation, guilt and winners or losers.

- Procedural justice is primarily a criminal justice process and retributive justice can be thought of as the distribution of harm in proportion to demerit, ironically a deserved justice.
- Punitive justice is about the removal of the offender from society with little regard for the impact of the wrongdoing on society.
- Social justice as contributive justice:
 - requires an agreement amongst people who treat each other as equals contributing to the welfare of each other;
 - is a higher order than the criminal justice system towards social justice guided by state and individual intervention;
 - takes issue with people who belong to the LGBTIQ groups as the research community and governments are still unable to address issues of difference;
 - has leaders who operate by faith who will, through dialogue problematise LGBTIQ issues, privilege, traditional hierarchies, asymmetrical power relations and will work diligently to bring about change grounded in justice and democracy.
- Social justice as prospective justice:
 - is about the rebuilding of communities in a society such as South Africa, and should be about cohesion and reconciliation as redress of past injustices and is less important than a future built on fairness of social co-operation;
 - based on inclusiveness in communities that consist of the notion that it is possible to make a difference;
 - holds the possibility of prophetic possibilities about the future, where educational transformative leaders are enabled to realise change, facilitating a visioning process based on critique, possibility and on hope.
- Social justice as prospective justice is about an ethic of care and of service, peace and love:
 - It is hope that is the actualisation of faith, calling faith creative, constructive, liberating, and emancipatory in order to bring about greater fairness and equity of opportunity;
 - Religions have a philanthropic, caring layer that shows charity towards others, develops a sense of moral duty and regard it as the deepest level of spirituality.
- Prospective justice as reparation:
 - should also be evident in the hearts and minds of people, not merely as treatises or legislation;

- is the responsibility of the state which should address social justice issues in a systemic, comprehensive and holistic manner;
- is to protect and advance social justice towards shaping society in a reconciliatory, autonomous and interdependence manner.
- Social justice as restorative justice is:
 - the implementation of actions by local communities to promote reconciliation through broad participation between victims and offenders where the offender is welcomed back into the community after serving his or her fair punishments;
 - an effort to counter adversarial conflict resolution, harnessing the power of relationships to strengthen accountability;
 - about punishments that should include community service, restitution and shame, all elements that are potent tools for moral re-education and reconciliation and where retribution is also encompasses rehabilitation, reconciliation, compensation and restoration.
- Restorative justice proponents view crime as a violation of people and their relationships
 - that demands a form of remedy of just grievances, but the process should include the victim, the offender, and the community (not only the offender and the victim) and is about the reparation, reconciliation and reassurance of the relationships;
 - use as a problem-solving approach to crime which involves the parties themselves and the community in general, in an inter-active relationship legal environment;
 - where the principle of reparation is about a common vision that the outcome of the intervention of justice is a solution that aims at repairing the harm;
 - where crime is viewed from a restorative justice movement viewpoint as an offence that has its origins in social conditions and relationships;
 - where communities should take responsibility for remedying the conditions that cause crime, where addressing crime should involve victims, offenders and the community who all should rely on a justice system that is flexible and creative in its response to crime;
 - communities can work through models known as 'victim-offender mediation', 'victim-offender conferencing', 'family group conferencing', and 'circle process';
 - where offenders may say: "When I do something wrong, I'm not the only one affected, my family will also be affected."
- Social justice as transformative justice creates a framework for social justice:

- that is also about dialogue and problem-posing issues of injustice;
- where transformative educational leaders have faith in and faith to work concurrently with the learning community in order to reconstruct education through engagement with race, class and gender issues through an ethic of care, faith and morality;
- uses words, the lexicon of meaning, that is the vocabulary of humankind talking to issues of class, race and marginalisation, where the class struggle is 'represented' by 'ideas' 'represented' although it can also become an ideology that reproduces domination;
- in which transformative cultural agents and leaders should become reflexive advocates, whose praxis shows empathy towards new cultural norms to diversity and disempowerment;
- constitutes a form of liberatory political praxis that is about leadership for social justice, oral transformative leadership, and social justice praxis.

2.3.5 An evaluation of the theory of social justice

In the review of the literature on justice (§2.2) and social justice (§2.3) the facets of justice, fairness and equality were scrutinised, followed by an analysis of the concepts of justice as common goodness, moral normative aptness, as political concept, as a singular act and as acts of redistribution and recognition that is evident and defined in social justice praxis as well as social injustice in societies, institutions and organisations.

In not providing an essentialised definition of social justice, but rather giving its temporal, diverse characteristics, the multifaceted conditions of social justice and the structural root causes of institutional defects and social injustices that underlie social ills, were emphasised. These injustices should be challenged through management strategies that will enable the ideal of a socially just society, one that adheres to the Constitutional duty to heal the divisions of the past.

Social justice theory affirms the complexity of the concept and the need in societies to challenge injustices through actions and praxis of redistribution, recognition and respect. It is, notwithstanding this idealised notion of social justice and excellence as virtue, evident that the common good in societies cannot merely be created by the goodwill and goodness of individuals without a clear structure or strategy that will make social justice possible. Legal enforcement, although necessary, is not creating the just societies and institutions social justice proponents purport it to be. The legal system and legislation is therefore failing those whom it is supposed to protect, not only in society but more especially in schools.

Although reflection on social justice forms a very important part of how scholars perceive activists for social justice, reflection can lead to impotence if reflection is about merely rethinking

and not recreating a society that is known for justness, fairness and equality. As an educational endeavour, social justice should become the praxis of liberation, not merely from the dire circumstances of poverty and inaccessibility to basic human rights of existence, but also liberation of the mind through education that is genuinely about social justice education. This liberation of circumstance and mind are possible through *conscientização*, creating critical consciousness of social justice issues that should lead to authentic social, cultural and historical emancipation of a just society and just education system and schools. It is about a justice of recognition of difference of marginalised groups, such as ethnicity, race, gender, and sexuality.

The particularised lens that is used to view one singular facet of social justice, such as racial and cultural diversity, equity and gender, democracy and the differently abled, includes notions of the common good toward these diversities, where general conditions for the common good and a socially just society are created. Another facet of social justice is moral normative aptness or social morality. Morality forms the basic structure of societies that focus on 'virtue ethics', a moral act, and 'virtue-as-excellence' that is regarded as attributes of fair human beings who choose to distinguish between doing what is temperate or just.

The political facet of social justice is also about a moral understanding of a specific political, social, and economic institution and regime, that which ought to be. Social justice and the concomitant acts of government are evident in the complexity of power relations, socio-politico-economic-military and geo-historical realities of the twenty-first century, that reflect equality, justice and injustices of practice and privilege and of human rights. Political conceptions of social justice include political movements *for* women in feminism, *for* black people in anti-racism, and *for* indigenous peoples in post-colonialism movements that should eradicate discrimination on the basis of ethnicity and race. This consciousness of injustices, inequity and marginalisation, is about recognition of difference.

The difficulty to define social justice is further compounded in the sense that it is a concept that is very difficult to implement. Social justice is about praxis as the notion of social justice as theory becomes meaningless if it is not to be found in the actions, the virtuous habits of individuals and of groups. It is only through acts of social justice that the common good becomes possible. The recognition model of social justice is primarily concerned with groups that are identified by their 'otherness' such as the LGBTIQ groups, who demand a socially just reciprocal relationship in which each one sees the other as his or her equal but also as somebody separate.

The South African education system was the vehicle that brought about political liberation through the notion of "liberation before education." Social justice once more involves a struggle, albeit not merely a political struggle, but a struggle for social justice, one that will create a society of social justice where the potential of all its citizens are at stake. This endeavour will

need transformational agents - school leaders - immersed in their own realities, leaders who will critically reflect, consider and then act against social injustices.

The general traits and intrinsic worth of social justice are regarded as a subjective notion of justice and equality, the common good, achieved in every aspect of an all-encompassing society; it is about economic and social egalitarianism of redistribution. Social justice espouses responsibility to specific actors, such as leaders with a specific demeanour, be it social, political or educational leaders. The cause these actors are fighting for is social justice against unjust issues such as discrimination, diversity, marginalisation, gender, spirituality and issues of age, ability, and sexual orientation with the sole purpose of ultimately changing inequities and marginalisation.

Restorative justice involves a triangular relationship amongst three entities, that of the victim(s), the offender(s) and the community. It provides for just grievances, but it also searches for solutions that will promote repair, reconciliation and reassurance. It is about the interaction and dialogue of the needs in the aftermath of a crime, but it is primarily about seeking a resolution that affords healing, reparation and reintegration into the society that will prevent further harm, it is about forgiveness, about being able to say 'I am sorry' and about being able to say 'I forgive you.' Social justice as restorative justice shows tensions with retributive justice with regard to its historical views where retributive justice is backward looking into the past, whilst restorative justice is progressive and future looking. Retributive justice uses words to apportion blame, guilt, individual responsibility and punishment for past harm, whereas the language of restorative justice is about reparation, restoration, community harmony and problem solving. The primary focus of retributive justice is punishment to deter future crimes, whereas restorative justice promotes harmonious relationships by means of restitution, reparation and reconciliation of offenders, victims and the wider community. The aim of retributive justice is the provision of just deserts, whereas restorative justice aims to repair community relationships. The objective of retributive justice is redress to the victim through a criminal justice process, whilst the objective of restorative justice is indeed also victim restoration, shaming and denouncing offenders, but the object is primarily that of restoration of the offender through citizen involvement and empowerment of the community. Approaches of retributive justice are based on actions towards the individual, vengeance and legal considerations of being considered innocent until proven guilty, whereas restorative justice use approaches based on community involvement, moral categories of equality and fairness, and makes strategic assessment of events and offenders.

Social justice as **retributive justice** deals with formal legal procedures, 'just punishments', the juridification process of the State to control, guide and give effect to the socio-economic promises of the ANC government to repair the legacy of apartheid, but also with **communitarian justice** that includes the *Ubuntu* principles of community and societal involvement in processes of legal action. The communitarian process are closely linked to

contributive justice that is based on an agreement amongst people to treat each other as equals, equally contributing to the welfare of each other, creating a culture of social justice that is about a higher order than the criminal justice system: it is about a culture that accedes, transcends revenge, individualism and injustice. Social justice as **commutative justice** propounds collectivism, group cohesion towards the common good of a society, establishing a collective psyche based on fairness towards each other and the group. Social justice as **distributive justice** is primarily about the redistribution of educational goods on an equitable basis as well as access to those goods that should be at the heart of social justice, especially in a post-apartheid South Africa. A social justice of **prospective justice** focuses on rebuilding and creating a fair future, especially after a period of political repression; it is forward looking, creating a better future based on social justice principles of the common good, as does **transformative justice**, a justice that is not only transformative but is also principled and purposively based on the ethics of faith.

Social justice is not merely an external condition or system, it is an attitude of the heart (Du Plessis, 1978:746). Although it requires, as in the case in South Africa, seeking to enable a socially just society based on constitutional human rights values of fairness and equality, the intervention of the state only cannot enforce it. Social justice is a dream (Martin Luther King), an ideal, a vision, that should become a lived experience that is based on commutative, contributive distributive, prospective, restorative and transformative justice for all. It should become a way of life that permeates all aspects of our lives. In remembering the past, construing a joint remembrance of a unified nation, social justice has the inherent goodness that can create responsibility to protect the marginalised, to advance and promote these values and rights, as well as the dream that social justice makes possible, be it in schools, government or society at large, as none of us can exist independently of our relationships with one another on a micro- and macro-level.

School leaders and the education system cannot individually address these challenges, but change should be brought about in the valuing of diversity, cultural understandings in societies and schools where shared values, coalitions, networking and mutual respect will support a social just educational environment and a socially just educational praxis.

2.3.6 An attempt at defining social justice

In defining social justice the literature study has revealed that it is primarily a social concept, politically loaded and essentially difficult to capture, both in nature, social intent and action, and open to numerous interpretations. Social justice is an ideal, a future vision, hope, that must become a way of life that permeates all aspects of being human, of a human society, institution and organisation. Justice is viewed as equality and fairness whilst social justice refers to the manner, the praxis, of justice in a society marred by inequalities and injustices.

From the above, social justice can be defined as a lived concept that encompasses the experiences of individuals and groups of peoples, be they marginalised and excluded because of race, ethnicity, religion, gender, sexual orientation, disability, class or belonging to the perceived privileged, to the fundamental human rights of a praxis of justice as fair, equitable, equal and of democracy and citizenship of all, a democracy and citizenship steeped in moral/ethical values of equitable and fair opportunities for the common good to prevail in institutions and societies. Social justice in its very core provides hope, and not retribution, for all learners and educators of a better future through social transformation and restoration of schools as socially just learning and teaching environments. Miller (1976:1), and Dantley and Tillman (2010:20), although writing thirty years apart, agree that theories will pass, that there is an inherent danger in trying to define social justice as one encompassing conception, or for that matter as one social or political theory. The reason is that new times ask for different drums as the problems need new drummers to orchestrate the new sounds.

Social justice that is value-based and virtuous regards human beings as important and sees them as individuals who have an essential purpose to fulfil his or her calling in society. The discovery of that intrinsic value and its purpose forms part of what education should set out to do in being honest in our relationships with each other, a relationship that is built on an attitude of wonder and awe, openness to mystery and respect. This kind of honesty and openness is linked to respect that means “to look again and more deeply” (LaNave, 2005).

2.4 CONCLUSION

In this chapter the conceptualisation of both justice (§2.2) and social justice (§2.3) were discussed as phenomena arising from interactions and these were critically evaluated in order to realise the first research aim, which is to determine theoretically, the nature of social justice. A brief historical contextualisation of social (§2.3.1) in a post-modern world was followed by a discussion of social justice phenomena (§2.3.2) as the common good, of morality and of values, as an act, as being political and educational. The theoretical constructs of social justice (§2.3.3) is evident in retributive, contributive, commutative, distributive and prospective justice. Subsequently, social justice as restorative justice and as transformative justice was discussed, followed by a comprehensive synthesis and a critical evaluation. In this synthesis one can clearly deduce the essential elements of social justice that will be further explored as the focus shifts from what social justice is, its ontology, to how it should become a lived reality and praxis in education.

In conclusion, Chapter Two was an investigation of the onticity of justice and of the modality of social justice. It was not yet specifically contextualised and applied to the education system. Chapter Three will explore the context and conditions of the emergence of management strategies for social justice praxis in education in order to provide a realistic and pragmatic

programme of scientific understanding and enquiry (Byrne, 1998:7). Structures are the result of modalities and as such the experience of humankind in the structures created in society of being just or unjust, and it is these educational structures that are always modal rankings in time and space (Du Plessis, 1978:737). Justice is only possible through normative actualisation via structures and institutions as channels through which social justice becomes possible (Du Plessis, 1978:746).

From the above discussion on and definition of social justice, the determinants of social justice can be inferred as a way of life that becomes visible in individual humankind, humankind's society, their institutions and organisations such as schools. Social justice becomes praxis in and of these institutions on a nomothetic and ideographic level, visible as legal and political determinants of social justice in a society marred by inequalities and injustices. The experiences of individuals and of groups of people are determined by just or unjust practices of distribution, recognition and democracy often pulled askew by accountability and standardisation issues in relation to the degree of marginalisation or privilege. In the last instance institutional determinants are found in prospective, restorative and transformative actions of leadership development programmes, theoretical frameworks for transformative social justice praxis and the role of school principals who are transformational public intellectuals and who manage teaching and learning from a social justice world view. Their actions are determined by an adherence to fundamental human rights praxis of justice as fair, equitable, equal and of democratic. The praxis of these school leaders permeates a value-based, virtuous and respectful regard for all humankind in all its diversity.

These determinants are discussed in Chapter Three.