

# A Social Justice Score Card for Dismissal Protection

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*Concepts like social justice, human rights, fair treatment, and equality have become part of a universal language. A generic social justice framework is proposed here. This framework promotes the development of social justice indicators. It cumulatively reveals a tangible score-card capable of measuring and comparing social justice allegiance inherent to any particular legal doctrine. The paper reveals the possibility of customising this framework to measure social justice compliance in dismissal protection. The Social Justice Score-card provides a quantitative measuring instrument to assess qualitative data on social justice ideology. This instrument exhibits significant potential for the assessment and promotion of social justice relating to employment legislation in general and dismissal protection, specifically within any particular domestic jurisdiction.*

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## Introduction

Nelson Mandela said: *For a revolution is not just a question of pulling a trigger; its purpose is to create a fair and just society* (Mandela as cited per Inagist, 2013).

In South Africa, Madiba's legacy of a fair and just society is apparent in present-day protective, prohibitive and prescriptive legislation. International organizations like the United Nations (UN), the International Labor Organization (ILO), the European Union (EU), and the Organization for Economic Cooperation and Development (OECD) have resolutely endeavored to advocate social justice as a necessary world policy.

Whereas social justice principles are embedded in almost every aspect of civilized societies, these morals are of particular concern in terms of employment protection. This paper is premised on the conviction that a generic social justice framework can assist in the identification and design of social justice indicators, which re-

vealed a social justice score-card capable of measuring and comparing social justice compliance inherent to any particular legal doctrine. The purpose of this paper is twofold. Firstly, a generic, conceptual social justice framework is proposed. Secondly, a selected doctrine, namely employment protection relating to dismissals is examined in terms of the proposed social justice framework. This customized social justice framework identifies and employs number of social justice indicators. Collectively, these social justice indicators reveal a tangible score-card capable of measuring and comparing social justice compliance in dismissal protections across divergent jurisdictions.

In this paper, international notions of social justice and its place in the world of work are discussed. Three particular international organizations, namely the UN, the ILO, and the OECD, have advocated social justice as a necessary world policy. For contextual purposes, these organizations were analyzed and their perspectives interpreted, in so far as they relate to the development of an instrument that can measure social justice notions in dismissal protections and dispute resolution. In short, we argue that having successfully developed a social justice score-card, foreign legal jurisdictions may be measured and compared in terms of their allegiance to social justice, and, with minor modification, it can also be used *inter alia* by employers to measure social justice compliance in company policies and procedures.

## Historical Development of Social Justice

The earliest translation of the term social justice seems to have been recorded in the Christian Bible with reference to the Jubilee year. In an attempt to adjust hierarchical inequalities and, specifically, inherited inequalities, slaves were released, land was returned to initial owners, and debts were excused. Social justice was applied to relieve unfair conditions in relation to individual property rights; however, it was not consistently enforced (Reisch, 2002).

Both Plato and Aristotle applied justice in the context of and, more importantly, as a consequence of the individual's social status. Unequals were necessarily treated unequally. Social justice, therefore, reinforced unequal distribution of benefits and burdens, and the social order was never challenged (Reisch, 2002).

In the teachings of Judaism, Buddhism, Islam, and Christianity, the idea of humane, righteous, and just treatment of people universally brought about a new concept of social justice. Generally, social justice meant justice beyond social status, albeit that the religious institutions themselves sustained a hierarchy resulting in unequal distribution of benefits and burdens amongst individuals (Reisch, 2002).

During the 17<sup>th</sup> century, consolidation of state power (the birth of an external authority, namely the state) was the order of the day. A collective or state au-

thority became responsible for ensuring social justice through the creation and enforcement of a system of laws prohibiting individuals from harming each other. This period denotes the inception of what became known as industrialized capitalism (Reisch, 2002).

The age of revolution followed, which shaped western societies significantly. Social justice was viewed as an articulation of individual liberties, expressed in terms of equal opportunities, rights, and outcomes (Rousseau, 1754). However, the French Revolution and, similarly, the American Revolution related social justice to the pursuit of happiness. Human well-being, collective and individual, should be the aim of what is socially just (Reisch, 2002).

During the 19<sup>th</sup> and 20<sup>th</sup> centuries, it became evident that tension exists between social equality and individual liberties (Nozick, 1974). The teachings of Karl Marx reiterated the principle that individuals are defined by their social relationships and that their social relationships are dependent on the economic structure of society and, therefore, on the classes such a structure produced (Marx, 1818-1883). Marx proclaimed that inequality is exclusively a consequence of political and/or economic structures. According to Marx, justice would be achieved when individuals received what they needed, not what they deserved, according to their social echelon. Marx concluded that redistribution should be based on human need and value, and not on status or productivity. During the same period, liberals advocated the pres-

ervation of individual liberty, whereas Marxists argued for social equality.

### **As a 20<sup>th</sup> Century Western Concept**

Primarily, the Western understanding of the concept of social justice encases the notion of fair distribution of the so-called societal goods (the benefits and burdens created by a society). The dilemma is to determine what is fair (Reisch, 2002). A number of impressionists have grappled with the concept of social justice within other forms of justice. Miller (2002), for example, defined social justice as the greatest net balance of satisfaction for society.

**The Western understanding of the concept of social justice encases the notion of fair distribution of the so-called societal goods.**

This notion translates into the assumption that social justice is a standard of morality, and the aim is to ensure that the greatest good is distributed amongst the greatest number of people in a society. However, this dispensation leads to an unequal distribution of goods, as quite often the rights of minorities are sacrificed for the good of the majority.

According to Ferree (1997), social justice is an act based on a philosophy known as social morality, which deals with the duty of each of us to care for the common good, where the common good refers to the network of customs, conventions, laws, and social organizations denoting our social institutions. In an orga-

nized setting (a society), these social institutions determine and influence the way in which we interact with each other as members of society. Ferree (1997) holds that the anthology of these institutions reflects our social architecture, and that: "Our social architecture improves with our understanding and application of core values and fundamental principles, especially universal principles of social and economic justice. The design quality (from both a justice and efficiency standpoint) of our laws and social institutions determines the quality of how people 'relate' to each other, to their physical environment, and to the process of technological change. It determines whether those relationships bring harmony or conflict, abundance or waste, human development or degradation, a culture of life or a culture of death".

**Social justice imposes a personal responsibility to work with others to design and continually perfect our institutions as a tool for personal and social development.**

Similarly, Rawls (1971) defines social justice as: "The virtue which guides us in creating those organized human interactions we call institutions. In turn social institutions (when justly, organized), provide us with access to what is good for the person, both individually and in our association with each other. Social justice therefore imposes on each of us a personal responsibility to work with others to design and continually perfect our institutions as a tool for personal and social development". Rawls's theory of social justice encompasses three dimensions:

- Ø Economic justice, articulated through society's rules relating to commercial markets;
- Ø Remedial justice, articulated through society's rules relating to civil and criminal matters; and
- Ø Distributive justice, articulated through the structure of society's institutions relating to interaction aimed at the common good.

It follows that, according to Rawls's theory, economic justice and remedial justice are concerned with just procedures and rules and regulations, and therefore focus primarily on the so-called general due process. Distributive justice, however, is concerned with just outcomes. These just outcomes may be translated into the appropriate and fair distribution of societal burdens and benefits amongst the members of society (Rawls, 1971). Rawls's theory of social justice stands firm on the assumption that there are great benefits to a culture of social co-operation, meaning that the least well-off people are made as well-off as possible, and everyone in society has a reasonable chance of obtaining the positions in society from which decisions about inequalities are made. Clearly, Rawls is of the view that justice needs to be applied to society as a whole, rather than to individuals. He advocates meeting human needs or requirements, and extends the application of redress for the disadvantaged and equality of opportunities.

However, there are those who support a contradictory view. Nozick and Miller

both oppose any form of redistribution. Nozick (1974) argues that it is not up to the state to distribute or redistribute societal goods, but that it is in the hands of individuals to decide whether or not assistance should befall the less privileged and disadvantaged. This typically denotes a system of NGOs. Miller (2001) holds that the market gives people what they deserve. Lazy and talentless individuals deserve less than talented and hardworking individuals, and the market takes care of this fair distribution.

It is clear that the quest for justice evolved through the ages and manifested in different forms. These different manifestations were notably linked to time, place, and circumstances. The social dimension of justice was always present; however, since the 21<sup>st</sup> century, many challenges, for example, globalization, have led to an escalation in the urgency of the quest for social justice.

The UN has reaffirmed that, previously, proponents of the concept of social justice directed their anger at wealth itself as the primary cause of exploitation. Today, we have come to understand that it's rather the manner in which wealth is used that is the culprit, not wealth itself (UN, 2006). Rawls (1997) captured this sentiment as: "...there is no injustice in the greater benefits earned by a few, provided that the situation of persons not so fortunate is thereby improved.

The development of the concept of social justice through the ages to the present day may be depicted in the form of a timeline (Table 1)

## The ILO

The ILO emanated from social struggles after World War I. The quest for social justice has been the central theme and aim of this international organization since 1919. The first Director General of this establishment stated: Economic and social questions are indissolubly linked and economic reconstruction can only be sound and enduring if it is based on social justice (ILO, 1919).

In 1944, the ILO proceeded with this mission, and published its celebrated *Declaration of Philadelphia*, which contained four fundamental principles (ILO, 1944):

- Ø Labor is not a commodity;
- Ø Freedom of expression and association are essential to sustained progress;
- Ø Poverty anywhere constitutes a danger to prosperity everywhere; and
- Ø The fruits of progress have to be shared by all.

These principles became the substratum of the ILO's quest for social justice. The Director General of the ILO, David Morse, in accepting the Nobel Peace Prize in 1969, said that the building of a truly peaceful world order based on social justice is the task of the ILO (ILO, 1969).

**The building of a truly peaceful world order based on social justice is the task of the ILO.**

**Table 1 Development of the Concept of Social Justice**

AUTHOR	TIME PERIOD	PERSPECTIVES ON SOCIAL JUSTICE
Authors of the Christian Bible	The years before Christ; the Jubilee year, which was the last of a seven-year cycle	Social justice manifested only in terms of individual property rights, and was not universally enforced. Slaves would be freed, property would be returned to original owners, and debts would be excused.
Plato and Aristotle	400 BC	Justice was a consequence of social strata. Un-equals were treated unequally. Social justice re-enforced unfair distribution of benefits as a result of the social order. Nobody dared to challenge the social order.
Various popes and personages	16 <sup>th</sup> century, during the rise of the four great religions	Social justice received a new universal meaning. Justice beyond social status was embraced by the religious movements, universally and inevitably causing conflict with rulers. However, the churches maintained their own hierarchies, resulting in another type of unequal distribution of benefits.
Marx and Rousseau	17 <sup>th</sup> and 18 <sup>th</sup> centuries	The birth of the state authority (government) resulted in a condition where social justice became enforceable through a system of laws. In the later 18 <sup>th</sup> century (the age of revolution), social justice was viewed as an articulation of individual liberties. Marx insisted that that redistribution should be based on human needs and values, and not on status and productivity.
Various liberalists	Early 19 <sup>th</sup> century	During the French and American revolutions, social justice was equated with the pursuit of happiness and human well-being, both collective and individual.
Rawls	1970s	Social justice encompasses economic, remedial, and distributive justice. Social justice extends throughout a society, and is aimed at due process and fair distribution of the benefits and burdens within a society. Redress is part of social justice.
Ferree	1990s	Social justice is a virtue based on social morality. It is to be translated into an act, which requires our individual and social institutions (social architecture) to be aligned with this morality, which has as its goal the common good.
Nozick	20 <sup>th</sup> century	Social justice in the forms of distribution and redistribution is not for the state to decide. Individuals will decide upon and give hand-outs where necessary.
Reisch	2002/3	Social justice denotes the fair distribution of societal goods. The dilemma is to determine what is fair.

During the period 1969 -1998, the ILO adopted a vast number of conventions primarily aimed at the enhancement of the quality of work life, such as on freedom of association, the right to organize and bargain collectively, the abolition of child labor, preventing discrimination in the workplace, and minimum wages. The ILO's Declaration on Fundamental Principles and Rights at Work, adopted in 1989, was the anthology of the work done by this organization over an extended period as a counter-initiative after World War II, when exploitation was rife in all major industrialized centers. The four primary principles expressed by the Decent Work Agenda, adopted in 1999, encompass employment, social protection, social dialogue, and rights at work, and read as follows:

1. The promotion of employment by creating a sustainable institutional and economic environment.
2. Developing and enhancing measures of social protection— social security and labor protection— which are sustainable and adapted to national circumstances.
3. Promoting social dialogue and tripartism as the most appropriate methods.
4. Respecting, promoting and realizing the fundamental principles and rights at work, which are of particular significance, as both rights and enabling conditions that are necessary for the full realization of all the strategic objectives.

In 2004, the ILO recognized the social impact of globalization, and appointed the World Commission on the Social Dimension of Globalization. It is during this period that significant imbalances became apparent regarding economic wealth between and within nations. The ILO has taken a firm stance on social justice in general, and specifically with reference to the impact of globalization on nations and individuals worldwide. During its nineteenth session in Geneva, on 10 June 2008, the ILO unanimously adopted the Declaration on Social Justice for a Fair Globalization. This declaration conveys the mandate of the ILO in so far globalization is concerned and is an extension and continuation of its Decent Work Agenda, as articulated by the Philadelphia Declaration, adopted in 1944, and the Declaration on Fundamental Principles and Rights at Work, adopted in 1998.

The ILO's Declaration on Social Justice for a Fair Globalization confirms that economic integration has advanced certain countries in economic growth and employment creation, but at the same time disadvantaged other countries, causing higher and faster-growing income inequalities, unemployment, and poverty. Further, the declaration reiterates that the ILO has a fundamental obligation to promote progress and social justice, and makes it clear that it will become practically involved in assisting members to achieve the four objectives (ILO, 2008; 2011).

### **The OECD**

Regarding social justice allegiance, the OECD has made an extraordinary

effort to include fragile, developing states in the international economic arena. In its memorandum, principles for good international engagement in fragile states and situations, the OECD aims at enhancing participation of five so-called Enhanced Engagement Countries (EE5), namely Brazil, China, India, Indonesia, and South Africa, with a clear view that such engagement in the context of globalization requires a careful approach. It is exactly this careful approach that involves the theory of social justice. The mere fact that this organization has identified the need for a different approach — which is notably based on domestic and international preservation of fair distribution of benefits and burdens— is indicative of its solemn adherence to notions of social justice. The Enhanced Engagement Strategies for the EE5 states are based on the following principles (OECD, 2007):

- Ø Take context as a starting point;
- Ø Do no harm;
- Ø Focus on state-building as the central objective;
- Ø Prioritize prevention;
- Ø Recognize the links between political, security, and developmental objectives; and
- Ø Promote non-discrimination as a basis for inclusive and stable societies.

#### The UN

The UN acknowledged its error in separating issues of distributive and re-

distributive social and economic policies (issues of justice) from issues of rights. Since its publication of *Social Justice in an Open World*, it is apparent that the UN subscribes to the impressions of Rawls regarding the meaning of social justice. The UN aims to effect policies that are founded on the principle that social justice concerns three interrelated dimensions that should not be distanced from fundamental human rights. These are: distributive justice, economic justice, and remedial justice. Further, the UN has identified six existing areas of inequality in various degrees throughout the world, which, with the correct dosage of social justice, may be readjusted, namely (UN, 2006):

- Ø Inequalities in the distribution of income;
- Ø Inequality in the distribution of assets;
- Ø Inequalities in the distribution of opportunities for work and remuneration;
- Ø Inequalities in the distribution of access to knowledge;
- Ø Inequalities in the distribution of health services, social security, and provision of a safe environment; and
- Ø Inequalities in the distribution of opportunities for civic and political participation.

The UN has vowed to address these areas of concern as a matter of priority in the future. Table 2 depicts landmark events on the international front, indicative of an allegiance to social justice.

**Table 2 International Landmark Events Relating to Social Justice**

DATE	BODY /EVENT	POLICY / DIRECTIVE	NARRATIVE
1919	Founding of the ILO	Constitution of the ILO	Universal and lasting peace can be established only if it is based upon social justice.
1944	ILO	Declaration of Philadelphia	Stressing international and national action for social progress.
1969	ILO and receipt of Nobel Peace Prize	Acceptance speech of Director General	Building a truly peaceful world order based on social justice is the task of the ILO.
1989	ILO	Declaration on Fundamental Principles and Rights at Work	Conventions on freedom of association, the right to organise and bargain collectively, the abolition of child labour, addressing discrimination in the workplace, and minimum wages.
1999	ILO	Decent Work Agenda	The primary goal of the ILO is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security, and human dignity.
2004	ILO	World Commission on the Social Dimension of Globalization	Globalisation has resulted in persistent imbalances in the current workings of the global economy, and requires redress.
2006	UN	Social Justice in an Open World	A three-year project titled: <i>Open societies, open economies: Challenges and opportunities</i> . This project concerned the researching of a possible regression in social justice with regard to the condition of nations and individuals in the 21 <sup>st</sup> century, and how to counter the condition.
2007	OECD	Principles of good international engagement in fragile states and situations	New long-term vision relating to international engagement, focused on fragile states, to assist in the building and maintaining of effective, legitimate, and resilient state institutions, capable of engaging productively with their people, to promote sustainable development, economic growth, and social justice.
2009	OECD	Ensuring fragile states are not left behind	Recognition of the EE5 countries as role players and establishment of enhanced engagement strategies with a focus on the larger, developing, fragile states to make a contribution to the global economy.

2008	ILO	Declaration on Social Justice and a Fair Globalization	This declaration reiterated the <i>Decent Work Agenda</i> , and called for more enhanced and aggressive action in relation to the achievement of social justice.
2009	ILO	Global Jobs Pact	In response to the global economic and unemployment crises, this instrument promotes centred investments, employment, and social protection.
2011	ILO	100 <sup>th</sup> International Labor Conference	Commitment from government, employers, and employees to assess progress in the achievement of social justice.
2011	Bertelsmann / Stiftung on OECD members	Social Justice in the OECD	Empirical research on social justice indicators in the OECD member countries, showing quantitative data accumulated from qualitative indicators.

### A Generic Social Justice Framework

From the above cumulative knowledge, it seems as though prominent authors, including theorists of present international recognition, for the most part embrace Rawls' theory on social justice. Rawls' theory encompasses at the least five dimensions:

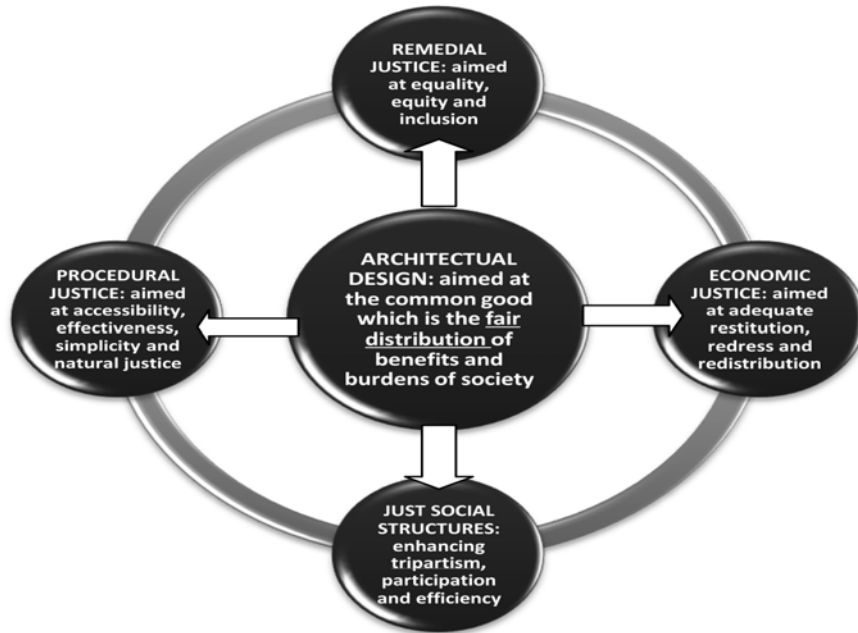
1. The architectural design of human institutions should be aimed at the common good. The common good is that which is socially just. What is socially just is the fair distribution of benefits and burdens of a society amongst its members.
2. Remedial justice should shape existing and potential inequalities into formal equality and inclusion, and should maintain same.
3. Just social structures in the form of civil organizations afford fair of participation in decision-making (for ex-

ample, tripartism)—especially by those affected by social injustices. Such structures should also be aimed at effective and efficient service delivery.

4. Procedural justice, which refers to due process aimed at accessibility, simplicity, and adherence to particularly the rules of natural justice.
5. Economic justice, which focuses on redressing the results of unfair discrimination through adequate restitution and redistribution.

From the descriptions of the five dimensions above, it seems that the first dimension, concerning an architectural design, suggests a conditional foundation or point of reference, as the case may be, for the emergence of the latter four dimensions, which are clinically distinct from, albeit complimentary to, each other. It follows that, graphically, a generic social justice framework may be concluded, as per Fig. 1.

Fig. 1 Generic Social Justice Framework



### Social Justice Framework in Terms of Dismissal Protection

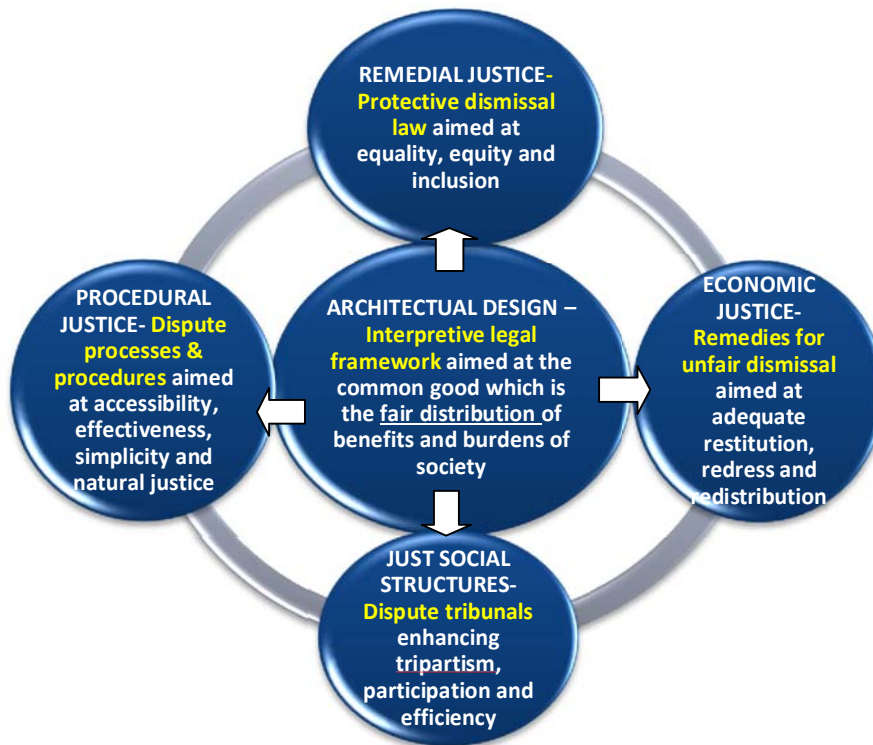
The institution of employment offers an ideal opportunity to augment the philosophy of social morality and the crucial affirmation of social justice within any society. The manner in which we design the institution of employment (through employment laws, protections, dispute tribunals, dispute processes, and remedies) has everything to do with whether or not we as a society (or workplace community, as the case may be) bring about harmony or conflict, abundance or waste, a work ethic of self-determination or degradation, and, ultimately, a culture of sustainable development and economic growth. Fig. 1 may then easily be applied as a template to compile a customized proposi-

tion within the employment protection context, inclusive of dismissal protections and disputes relating to dismissals.

It is submitted that the architectural design may be translated to a particular interpretive legal framework within which statutory or other laws find application. The element of remedial justice is parallel to dismissal protections, meaning current statutory law on dismissals. Procedural justice may be seen as encompassing dispute processes and procedures, whereas just social structures include the establishment and functioning of dispute

**Economic justice clearly anticipates the so-called remedies for unfair or unlawful dismissal.**

Fig. 2 Displays the Proposed Customized Version of a Social Justice Framework in Terms of Dismissal Protection and Dispute Resolution.



tribunals. Economic justice clearly anticipates the so-called remedies for unfair or unlawful dismissal.

The customized version of the generic framework of social justice harmonizes well with the qualities that are universally associated with dismissal protections and disputes about dismissals. At the same time, these qualities relate comfortably to the conceptualization of social justice, as presented in Fig. 2.

### Social Justice Indicators

To measure social justice compliance within the five respective dimensions, five

questions have been carefully formulated under each dimension. These 25 questions have been selected purposively with a view to measure social justice compliance, both clinically and derivatively. It follows that these 25 questions, in actual fact, serve as social justice indicators, and the questions are comprehensively described in tables 3-7, under the respective dimensions.

Table 3 depicts the primary dimension, which relates to the architectural design or interpretive legal framework within which law finds application. Tables 4, 5, 6, and 7 depict the latter four dimensions. Each table provides the five

**Table 3 Architectural Design; Social Justice Indicators**

ARCHITECTURAL DESIGN	Social justice through an interpretive legal framework aimed at the common good, which is the fair distribution of benefits and burdens of society
1. Does the term 'social justice' appear in the supreme law of the country as part of its prelude?	Recognizing that societies inherently display unfair distribution of benefits and burdens, and acknowledging that social justice in supreme law finds interpretation and application in all other statutes.
2. Does the country have specific fundamental rights on 'substantive' equality?	Recognizing substantive equality as a fundamental human right indicates devotion to fair distribution of benefits and burdens, inclusive of redress.
3. Does the country acknowledge redistribution or redress amongst specific societal groups in employment-related legislation?	Statutes acknowledging and regulating redress are indicative of allegiance to substantive equality, not mere formal equality. These statutes correct past unfair distribution of benefits and burdens, not merely current or potential imbalances in the workplace.
4. Is the country an ILO member state, and has it ratified Convention 158?	Commitment to international globally acceptable policies on what is fair or in the common good, specifically relating to dismissal protections.
5. Has the country adopted a National Decent Work Agenda in accordance with the ILO's Decent Work mandate?	Indicator of practical steps taken toward the ILO's initiatives in the achievement of <i>Making decent work a global goal and a national reality</i> .

**Table 4 Remedial Justice: Social Justice Indicators**

REMEDIAL JUSTICE	Social justice in protective dismissal law, aimed at equality, equity, and inclusion
1. Does the country provide constitutional protection (fundamental rights) against unfair or unlawful dismissal?	Indicator of high status afforded to protections against unfair or unlawful dismissal, and the commitment to translate this to enforcement within an appropriate interpretive legal framework.
2. Does the term 'social justice' appear in the law governing dismissals?	Statutory provision for the application of social justice when dealing with termination matters.
3. Is provision made for extraordinary protection against dismissals based on discrimination?	Expression of equality / equity principles in the application of the law related to dismissal.
4. Do public- and private sector employees enjoy the same protection against dismissal?	Indicator of the same employment protection across all sectors of employees.
5. Are all employees protected against unfair dismissals, irrespective of the nature of the contract, type of work, etc.?	Quality of application not contaminated or watered down by any exclusion criteria.

questions selected as social justice indicators, together with an argument as to how such questions relate to the assessment of compliance with social justice principles, bearing in mind the purposive context of the respective dimensions.

**Table 5 Just Social Structures: Social Justice Indicators**

JUSTSOCIAL STRUCTURES	Social justice in dispute tribunals, <i>enhancing tripartism, participation, and efficiency</i>
1. Do labor, business and government show tripartite functioning?	Representation of labor, business, and government in dispute tribunals.
2. Can a complainant (applicant) refer an unfair dismissal matter in person without expensive (legal) representation?	Practical consideration extending access without (obscure/direct) exclusion due to cost factors.
3. Do referring parties have a choice regarding compulsory / alternative dispute resolution tribunals?	Affirmation of principles of voluntarism, which results in effective participation and practices.
4. Are tribunals user-friendly, with assistance /educational functions?	Easy access at micro- and macro level, stimulating adherence to socially just morals.
5. Do tribunals have concurrent jurisdiction to act as one-stopshops for all employment-related matters?	Effective and efficient conflict resolution without decentralized or centralized, as the case may be, processes.

**Table 6 Procedural Justice: Social Justice Indicators**

PROCEDURALJUSTICE	Social justice in dispute processes and procedures, <i>aimed at accessibility, effectiveness, simplicity, and natural justice</i>
1. Are referral procedures cost-free?	Access for all, including the poor and illiterate.
2. Are resolution procedures and processes aimed at expedition, in that they make provision for stipulated timeframes?	Expeditious justice, administered within prescribed time limits.
3. Is provision made for 'without prejudice' mechanisms?	Enhancing speedy resolution and confidentiality on macro level, which promotes a counter to current and potential conflict in the workplace.
4. Do processes make provision for inquisitorial approaches?	Promotes accessibility, efficiency, and expeditiousness in dispute resolution.
5. Do processes provide balance (comparative) with regard to choice of representation?	Promotion of a level playing field in terms of capacity.

**A Social Justice Score-card**

Once the 25 questions are answered, the results reveal a typical scorecard. The original questions were formulated in such a manner that they will elicit a definite positive (yes) or negative (no) answer. An answer in the positive will result in a score of 1 point,

and an answer in the negative will achieve a score of 0. Hence, should the individual scores (out of a total of 5 points) under the five distinct dimensions be added to a grand total of 25 points, a linear and scientifically valid scorecard that is clear and non-weighted transpires.

**Table 7 Economic Justice: Social Justice Indicators**

ECONOMIC JUSTICE	Social justice in remedies for unfair dismissal, <i>aimed at adequate restitution, redress, and redistribution</i>
1. Are available remedies for unfair dismissal aimed at full restitution in that retrospective reinstatement is the primary remedy?	Remedies that address the act / omission by making it (fully) right, not only a <i>solatium</i> .
2. Are remedies assessed on equitability?	Promoting the remedying of a wrong within a particular set of employment circumstances.
3. Are remedies redress-sensitive?	Flexibility in making judicial determinations, with regard to all circumstances of interested parties and the nature of the wrong being redressed.
4. Do remedies include consideration of possible economic loss?	Inclusion of monetary losses, not merely rights infringement considerations.
5. Are remedies readily (practically) enforceable?	Practical actions aimed at speedy redress/restitution and redistribution.

**Table 8 Social Justice Scorecard**

SAMPLE COUNTRY	Social justice through an interpretive framework	Social justice in protective dismissal law	Social justice in dispute tribunals	Social justice in dispute processes and procedures	Social justice in remedies for unfair dismissal
	Q1 A:Yes (1)	Q1 A:Yes (1)	Q1 A: Yes (1)	Q1 A: Yes (1)	Q1 A:Yes (1)
	Q2 A:Yes (1)	Q2 A:Yes (1)	Q2 A:Yes (1)	Q2 A:Yes (1)	Q2 A:No (0)
	Q3 A:Yes (1)	Q3 A:No (0)	Q3 A:No (0)	Q3 A:Yes (1)	Q3 A:No (0)
	Q4 A:Yes (1)	Q4 A:No (0)	Q4 A:No (0)	Q4 A:No (0)	Q4 A:No (0)
	Q5 A:No (0)	Q5 A:Yes (1)	Q5 A:No (0)	Q5 A:No (0)	Q5 A:No (0)
13 / 25	4	3	2	3	1

This scorecard is the result of the analyses contained in figures 1 and 2, and the extrapolation of the information collected, as seen in tables 3-7. In order to complete the Social Justice Scorecard, data should be researched, analyzed, and accumulated for a particular jurisdiction. For example, once the current South African dispensation relating to employment and dismissal protections have been comprehensively examined, tables 3-7 may be completed. Table 8 depicts the proposed Social Justice Scorecard, and illustrates fictitious results as an example.

**Conclusion**

The present paper commenced with a comprehensive exploration of the origins and historical development of the concept and meaning of social justice. Social justice manifestations within the context of human rights and, in particular, international labor dispensations, were scrutinized. This exploration culminated into the design of a social justice framework exhibiting diverse generic application possibilities, as per Fig 1. Subsequently, in Fig. 2, this generic framework was tailored to complement a particular doctrine within the employ-

ment context, namely dismissal protections (inclusive of disputes regarding dismissals). Social justice indicators, as per tables 3-7, tallying 25 questions were formulated with the express purpose of assessing social justice relating to the five respective dimensions of the customized social justice framework. As seen in table 8, the 25 social justice indicators, in concert, reveal a social justice scorecard.

The scorecard aims to provide a scientifically sound measuring and comparative tool in the assessment of social justice compliance pertaining to dismissal protections and disputes about dismissals. One of the main aims of any piece of labor legislation is to ensure and achieve social justice in the workplace, and this social justice scorecard will assist in determining if these aims are being achieved. The scorecard covers five distinct dimensions –all of which have been derived from sound and legitimate scientific sources.

The Social Justice Score-card can also provide a mechanism for legislators to evaluate and compare the status of domestic (statutory) dismissal and dispute resolution systems, with a view to enhance social justice.

Further, the application of either the generic social justice theory or the customized theory is vast. The generic theory may be adapted to be used as an effective tool by management to evaluate or measure internal company policies and procedures relating to dismissal and dispute resolution procedures. An adjusted

scorecard has the potential to provide an unbiased view of social justice indicators within a company, which, in turn, can prevent unnecessary disputes regarding the interpretation of company policies. The customized theory may be translated to the compilation of social justice indicators within the context of other legal doctrines, such as social security law or even legislation pertaining to national education.

On either the macro or the micro level, the results obtained from the scorecard can be used to identify or assist in the following:

- i. Areas that are in line with social justice indicators.
- ii. Areas that are not in line with social justice indicators.
- iii. Development strategies to amend or adapt legislation or company policies.
- iv. As part of strategic planning sessions.
- v. As a tool to facilitate consultations and or collective bargaining between the social partners.

The possibilities for future research on matters related to this social justice score-card are vast, and we submit that this score-card can be enhanced and tailored to measure social justice across divergent doctrines and within numerous and varied contexts.

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