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A POLICY ANALYSIS OF KEY EMPLOYABILITY INTERVENTIONS FOR THE EDUCATIONALLY DISADVANTAGED IN FURTHER EDUCATION: COMPARATIVE INSIGHTS FOR IRISH EDUCATION.

JAMES PATRICK BOYLE

A POLICY ANALYSIS OF KEY EMPLOYABILITY INTERVENTIONS FOR THE EDUCATIONALLY DISADVANTAGED IN FURTHER EDUCATION: COMPARATIVE INSIGHTS FOR IRISH EDUCATION

BY

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An Undertaking Completed and Submitted in Fulfilment of the Requirement for the Degree of Doctor of Philosophy, School of Education, National University of Ireland, Cork

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Head of School: Professor Kathy Hall

November 2014

Dedicated to my parents, Jim and Marie, to my wife Kathleen and children, James, Emily and Laura and to my aunt Maeve.

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This thesis was a challenging project. I have to thank most sincerely those who helped in bringing it to a conclusion. It is dedicated to a special few but those who kept me motivated and provided that essential encouragement are more numerous. They also need a deserved acknowledgement and expression of gratitude. In the case of my supervisors, Professor Denis O' Sullivan and Dr Stephen O'Brien, I will be forever grateful for their attention to detail and the effort they put into the project to allow me reach a goal I have sought for a long time but took a while to get around to. More generally, I felt that the School of Education personnel gave me their support and good will, something that cannot be ignored or forgotten. They aided my progress through administrative aspects or gave advice when it was needed. I am obliged to Dr Tom Mullins for originally seeing the potential in the idea. Professor Kathy Hall was equally encouraging in this regard. I would also like to thank Mr Frank Martin of the Faculty of Law for the time spent on the project.

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Jim Boyle

November 2014

I hereby declare that this dissertation has not been submitted to any other institution and is the original work of the author except when stated otherwise.

Signed_____

James Patrick Boyle

Date_____

ABSTRACT

The aim of this study is to garner comparative insights so as to aid the development of the discourse on further education (FE) conceptualisation and the relationship of FE with educational disadvantage and employability. This aim is particularly relevant in Irish education parlance amidst the historical ambiguity surrounding the functioning of FE. The study sets out to critically engage with the education/employability/economy link (eee link). This involves a critique of issues relevant to participation (which extends beyond student activity alone to social relations generally and the dialogic participation of the disadvantaged), accountability (which extends beyond performance measures alone to encompass equality of condition towards a socially just end) and human capital (which extends to both collective and individual aspects within an educational culture). As a comparative study, there is a strong focus on providing a way of conceptualising and comparatively analysing FE policy internationally. The study strikes a balance between conceptual and practical concerns.

A critical comparative policy analysis is the methodology that structures the study which is informed and progressed by a genealogical method to establish the context of each of the jurisdictions of England, the United States and the European Union. Genealogy allows the use of history to diagnose the present rather than explaining how the past has *caused* the present. The discussion accentuates the power struggles within education policy practice using what Fairclough calls a strategic critique as well as an ideological critique. The comparative nature of the study means that there is a need to be cognizant of the diverse cultural influences on policy deliberation. The study uses the theoretical concept of paradigmatic change to critically analyse the jurisdictions. To aid with the critical analysis, a conceptual framework for legislative functions is developed so as to provide a metalanguage for educational legislation.

The specific contribution of the study, while providing a manner for understanding and progressing FE policy development in a globalized Ireland, is to clear the ground for a more well-defined and critically reflexive FE sector to operate and suggests a number of issues for further deliberation.

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CHAPTER ONE

INTRODUCTION

1 INTRODUCTION

The increase of participation in a just society which strives for equality of condition (aspects of this will be discussed presently) as opposed to the necessary erasure of social class structures is a platform for critical analysis in this study. The study involves the use of discursive terms to enable the problematizing of aspects within Irish educational discourse as the FE sector develops. Although a catalogued historical description of any jurisdiction is not the desired contribution of the thesis, certain historical facets have to be considered. However, it is in a genealogically informed analysis of descent and emergence (Foucault, 1984) of discursive terms in a theoretical manner that the analysis progresses. The descent represents a more dynamic form of origin whereas the emergence is what arises due to the interaction of various social forces.

This is illustrated, for example, when Ireland's position with respect to FE is put in the context of European Union membership (Trant et al, 1998). The introduction of free education unintentionally diminished "the vocational ethos as vocational schools became part of mainstream educational provision" (O' Connor: 1998, p65). When support from the European Social Fund (ESF) became available for vocational education and training, Ireland was unable to use it in all sectors "since the ESF rules at that time did not allow it to support actions in mainstream education" (ibid, p65). However, this was contrasted with the development of vocational programmes outside mainstream education as a result and in specific locations where facilities were available (ibid) which were often third level institutions. The conclusion can be made that it was at this point that the FE system was lost between second and third level and this contributed to confusion about its status

subsequently. The function of the FE sector is not well defined in Irish education parlance. The introduction of, for example, the *Qualifications and Quality Assurance (Education and Training) Act, 2012* and the *Further Education and Training Act, 2013* in Ireland highlights the need for studies relevant to FE. What could be regarded as the nascent use of FE specific legislation starts a journey for the implementation of Irish FE policy that holds some promise for use by the educationally disadvantaged. However, the structuring of a coherent sector with adequate acknowledgement of qualifications therefrom in the minds of employers and hence potential employees needs to be discussed.

This study begins to investigate the link between education, employability and the economy. Fairclough's (2005, p1) underscoring of a "transdisciplinary way" and Ball at al's (1994, p4) similar mention of an "eclecticism" while referring to policy analysis, are drawn from due to the influence from the many areas within the study such as law, culture, politics, economics, sociology and of course, education that results from the investigation of such a link. A "transdisciplinary" way as described by Fairclough (2005, p1) "through dialogue with other disciplines and theories which are addressing contemporary processes of social change" will be adhered to in the study. The use of what Ball (1997) considers to be a "policy trajectory" analysis (which is discussed in chapter three) is also influential in the consideration of ideology and hegemony, as well as the discussion of paradigmatic change (much of which is discussed in the jurisdictional chapters seven, eight, and nine).

The main research methodology takes its lead from the main research aim which is, to procure comparative insights for Ireland from some key legislative and cultural practice perspectives, from a comparative policy analysis of key employability interventions for the 16-24 year old age cohort in further education. Hence, a critical comparative policy analysis structures the cross-national study. The study is progressed by a genealogical analysis (a method that allows the use of history to diagnose the present rather than explaining how the past has caused the present and is influenced by the work of Foucault) to establish the context of each jurisdiction, and the use of critical policy analysis with appropriate use of critical discourse analysis (or more appropriately described here as the critical analysis of discourse).

The concept of educational disadvantage (which is discussed in chapter two) is central to the study which is confined to comparative insights for Ireland from within a specific age cohort in a specific sector of education. The 16-24 year old age cohort is the group of interest and it is further education (FE) (which is discussed in chapter two) that is the sector of interest. Thus, FE is another central construct within the study. In view of the publishing of the *Further Education and Training Act, 2013* in Ireland, this is a sector in need of attention.

The study investigates legislative and cultural practice perspectives. With this in mind, a conceptual framework will be utilized for legislative practice perspectives. This framework is derived from a study of the academic literature with regard to some functions of law. The framework will be used as a metalanguage which employs a set

terminology for the critical analysis of the discourse elements involved in, for example, legislation, reports and policy documents. The emphasis on a critical analysis of discourse is important to the study. The comparative nature of the study means that there is also a need to be cognizant of the diverse cultural influences on policy deliberation. To accommodate this aspect of the critical engagement with the education/employability/economy link, the study includes a critique of issues relevant to participation, accountability and human capital in the public/private good debate. The study will be conducted by analysing how ideological contexts (through a genealogical treatment, particularly since the 1980s) within the jurisdictions have had influence on the FE educational policy direction, implementation and impact. There will therefore be a focusing on aspects of power within society and the aspects that present themselves as the study progresses will be filtered for some comparative insights.

2 PROGRESSION OF WORK

This work contributes to the debate on disadvantage, employability and FE policy. It does so using a cross-national comparative methodology and the product of the study is meant to allow comparative insights for Ireland to be opened up to more elaborate discussion. The work is divided up into five sections.

2.1 INTRODUCTION AND SETTING THE CONTEXT

The first section, which contains chapters one-two, introduces the study and sets the context. After the introduction (chapter one), there is a discussion on FE and educational disadvantage (chapter two). The chapter's aim is to conceptualise employability in terms

relevant to FE before outlining aspects of the debate on FE/employability in the Irish context. This will allow a clear link between the conceptual elements of the research (employability and FE) to be linked with the empirical elements (through the jurisdictional analysis) so as to progress the main research aim of the study.

The discussion on FE in this work is progressed by settling on a particular understanding of FE. This definition will allow the concept to be considered across jurisdictions without confusion and establish an acceptable understanding of the term for the study. It will be connected to the concept of employability which brings us to the next part of the chapter. The concept of educational disadvantage and aspects of its relation with employability are discussed. The relevance of the concept of capital has been acknowledged (for example Kellaghan, 2001) in attempts to aid the understanding of the concept of disadvantage and is focused on here also. An indication of the relationship of educational disadvantage with FE leading on to a conceptualisation of employability that is relevant to FE is advanced.

2.2 AN ANALYTICAL LANGUAGE: POSITIONING THE STUDY

The second section, which contains chapters three-five, outlines aspects of critical policy analysis (chapter three), key cultural practice perspectives relevant to the study (chapter four) and key legislative practice perspectives relevant to the study with a particular concentration on the functions of law (chapter five).

Chapter three sets the criteria for engagement of the critical analysis and outlines the critical stance taken within the study. This chapter delineates some of the concepts that allow the progression of the analysis while briefly discussing some aspects of culture relevant to the use of critical theory. The main themes of culture within the study are dealt with more substantially in chapter four. Nonetheless chapter three engages with aspects of ideology, power and knowledge which are represented in many jurisdictions by a dominant cultural agenda and what Habermas called juridification. These latter two are also relevant to the concept of employability which draws attention to the disadvantaged and the economy, where the latter often exhibits exclusion of the educationally disadvantaged.

The chapter also critiques ideas of determinism. This could include aspects similar to Kellner's (2003) reference to Freire's "decolonization" which sought an appropriate participation for all within education. This is similar to Jaspers' limit situations[1] which are:

> *moments, usually accompanied by experiences of dread, guilt or acute anxiety, in which the human mind confronts the restrictions and pathological narrowness of its existing forms, and allows itself to abandon the securities of its limitedness, and so to enter new realm of consciousness* (Thornhill, 2011)

Habermas and the New social movements are relevant here also (Edwards, 2004).

Having set about an investigation of the link between education and employability, chapter four establishes a basis for critically analysing, from key cultural practice

[1] Chris Thornhill, "Karl Jaspers" in *The Stanford Encyclopedia of Philosophy*, edited by Edward N. Zalta, (Spring 2011) published through http://plato.stanford.edu/archives/spr2011/entries/jaspers/

perspectives, the employability interventions for the cohort under study in the FE sector. This chapter is cognizant of the assumption that cultures are both structured and structuring (Biesta, 2011) and is supported by a view, such as that of Foucault, that power is a relation between individuals that can lead to change (Masschelein, 2004) and can be further related to Bourdieu's concept of habitus and the ability of individuals to mediate (O' Brien and Ó Fathaigh, 2005). However, Foucault's (1982) mention of an antagonism of strategies and forms of resistance temper the positive hints within phrases like mediation. There is a lead on to the introduction of *participation* as one of the primary aspects of this present study. As the education/employability/economy link is to the fore of concepts within the study, the relationship between participation and accountability for such, along with the relevance of human capital to both is a salient consideration within the chapter. All three play a part in critically analysing the learning goals, processes and outcomes in a given jurisdiction which are relevant to the 16-24 year old age cohort in FE for employability. In other words, the aims and objectives, or what Biesta (2011) recognised as the particular purposes of a given educational setting, are put in a particular context.

The contrasting positions of working *with* as opposed to *for* the educationally disadvantaged are considered. The exploration of claims that the political Right has made most of the running in defining the concept of *accountability* is also considered. This ties in with participation issues and the contrasting positions of the marketisation, as opposed to the democratisation (through dialogue and negotiation), of the educational agenda.

Chapter five investigates some functions of law. The purpose of doing this is to allow the construction of a conceptual framework with which to analyse legislation in the jurisdictions under study. This forms the basis of the metalanguage with which to critically assess the statutory interventions. The metalanguage describes what each function is meant to represent in the study. There is a reputed power conflict on some occasions between what legislation is meant to do and what it actually does (Jorgensen and Shepsle, 1994; Harris, 1997; Nourse and Schacter, 2002) and this is discussed. This demonstrates the need for a simultaneous analysis of cultural *and* legislative aspects to engage with possible power/ideological struggles.

2.3 METHODOLOGY

The third section contains chapter six which looks at the methodology and how the study is carried out. To begin with, some theoretical aspects of the research study paradigm are discussed. The research methodology that structures the study is then put in focus. This is followed by a more in depth consideration of how the cross-national comparative research in progressed by a genealogical method, critical policy analysis and aspects of a critical discourse analysis from a methodological rather than theoretical perspective. The critical discourse analysis is aided by the use of a metalanguage for the attributed functions of law and this is described and outlined. The research aims and questions are then outlined. Some research limitations are also discussed. Mertens (2007, p224) draws attention to a transformative paradigm in relation to this latter aspect. She explains that this paradigm "raises issues related to ontology, whose reality is privileged, and how mixed methods can be used to come to a deeper understanding of … the role of power

differentials". The author's understanding in view of his relatively advantaged position with regard to policy discourse is salient within the chapter and the study employs a mixed method strategy in a search for a deeper understanding of power relations in society.

2.4 INSIGHTS: A STUDY OF THREE JURISDICTIONS

The fourth section contains chapters seven-nine and covers the three jurisdictions which constitute the empirical data for the study. The jurisdictions in the study are England, the United States (US) and the European Union (EU) respectively. Each chapter sets out to investigate, outline and critically analyse FE policy from an employability perspective, with particular reference to the 16-24 year old age cohort. In doing so, the chapters take a look, in a manner similar to what Ball (1997, p266) describes as a "policy trajectory" analysis, at three respects as follows. The first deals with the ideological context of the jurisdiction involved, while the second deals with some of the programmes aimed at the cohort under investigation. The third assesses the impact of these programmes in terms of key legislative and cultural practice perspectives.

2.5 DISCUSSION AND ANALYSIS

The fifth (and final) section contains chapter ten which ties in the conceptual insights, from chapters two-five, with the empirical insights from chapters seven-nine. The chapter will draw out aspects of interest from each of the jurisdictions. These themes will be developed for the comparative insights for Ireland. The chapter will look at possible implications of the study for policy makers in Ireland and the possibilities of policy

transfer and policy borrowing notwithstanding the unique cultural filters within Ireland (Dale, 1999; Jessop, 2002). The possible input from globalisation as a phenomenon may require policy goals and processes to be considered more consciously if national filters resist attempts at improving employability.

3 CONCLUSION

The aim of this study is to glean comparative insights so as to aid the development of the discourse on further education (FE) conceptualisation and the relationship of FE with educational disadvantage and employability. This is of particular importance in Ireland in view of recent FE legislation and the historical ambiguity that clouds a proper understanding of the sector's functioning. As a comparative study, there is a firm focus on providing a way of conceptualising and comparatively analysing FE policy internationally. The study will strive to deliver a balance between conceptual and practical concerns in the manner it details for example, the dialogic participation of students, and the accountability of the FE sector for equality of condition towards a socially just end, while meeting human capital needs. A methodology and methods deemed appropriate to a transformative paradigm is progressed.

While this study will encompass a transdisciplinary way as outlined by Fairclough (2005) or similarly, an eclecticism as mentioned by Ball et al (1994), and consider aspects of a policy trajectory analysis outlined by Ball (1997), the overarching methodological structure is a critical comparative policy analysis. The study is progressed by the use of genealogy, critical policy analysis and critical analysis of discourse. Moreover, the use of

a critical comparative policy analysis as the main research methodology to structure the cross-national research using genealogy, critical policy analysis and critical analysis of discourse as methods to progress the study, demonstrates an agreement with the concept underpinning the use of mixed approaches (Lieberman, 2005) or combined approaches (Finegold, 1992; Ainsworth and Hardy, 2004).

The focus will now switch to setting the context of FE and employability in an Irish context in the next chapter.

CHAPTER TWO

FURTHER EDUCATION, EDUCATIONAL DISADVANTAGE AND THE IRISH POLICY CONTEXT

1 INTRODUCTION

This chapter outlines some of the main concepts within the study. These are Further education (FE) and disadvantage (and in particular the relation with employability). The chapter provides a conceptual contextualization and what could be regarded as ideal type or yardstick definitions of key, contested policy terms from a range of sources. It is not the intention to provide a direct historical description of the development of FE in Ireland or any other setting. As mentioned earlier, it is in a genealogically informed analysis of descent and emergence (Foucault, 1984) of discursive terms in a theoretical manner that the analysis progresses. This is important to recognize, since the overarching understanding here is that a new era of development within the FE sector in Ireland has been initiated by recent legislation. The study is about the use of discursive terms to enable the problematizing of aspects within Irish educational discourse as the new FE sector develops. Nonetheless, history cannot be ignored totally. This arises because some elements that are relevant to the sector, for example the academic/vocational divide, have been influenced by historical decisions and strategies.

The contemporary debate is put in context by a discussion of the development of discourse on the main concepts. The focus of the chapter is to critically engage with the concepts of FE and disadvantage on a theoretical level and textualize the discourse aspects relevant to the thesis. By conceptualizing the discourse through the meta-analysis of the literature, the thesis draws together a particular set of sensitizing concepts through which issues of participation, accountability and human capital can be understood and compared across contexts.

2 AN UNDERSTANDING OF FE

Definitions of FE are contested. These definitions when provided can be content specific. A policy or scholarly definition within a given English-speaking jurisdiction may develop further discussion due to the specific focus of a given agenda. This can then lead to problems addressing comparative insights within a study like the present one. Some regard FE as part of the tertiary education system. Others position it between second and third level. Overall, FE does not easily fit into the traditional tripartite system of first, second and third level. To enable the term *Further Education* to be used more precisely in a study such as this, a first task must be to seek to delineate some of its parameters. A definitive statement with regard to parameters will not be possible, but in the spirit of an ideal type definition, a workable understanding of FE for the study will be sought.

In England, the report from 1997 called *Learning Works: Widening Participation in Further Education* had some interesting points on the task of defining the term Further Education. In the report, Kennedy (1997, p1) states that "Defining further education exhaustively would be God's own challenge because it is such a large and fertile section of the education world". In that Report on further education, FE is referred to as "everything that does not happen in schools or universities" (ibid., p1). Although Kennedy referred to this as a "throwaway definition" (ibid., p1) in the report, it is nonetheless implicitly acknowledged as the accepted understanding by the Further Education Funding Council. In the Irish White Paper on Adult Education (2000), Further Education is described as:

> *education and training which occurs between second and third-level. This includes programmes such as Post Leaving Certificate courses, second-*

> *chance education* … (Department of Education and Science (DES): 2000, pp 27-28)

On the Department of Education and Skills web site[2], the following description is used: "Further Education covers education and training which occurs after second level schooling but which is not part of the third level system." This description is in agreement with the White Paper's use of the term. There is an agreement on the positioning of further education between second and third level. However, these definitions also give rise to a problem in that they exclude the return to second level by those who use second chance education via FE. The term *second-chance* is used in the description of further education in the White Paper, and this confuses matters.

It has been referred to in the Irish McIver interim report on a Post Leaving Certificate review that:

> *There are a number of different sectors of post-second level FE provision in place, including PLC colleges, VTOS centres and adult education (mainly in PLC colleges and second level schools). Increasingly, these are overlapping in their target markets, and in their provision, but are divided by having different histories, different resourcing and separate planning.* (McIver Consulting: 2002, p48)

This highlights the need for focused attention with regard to the framework of further education provision. It is noticeable that the term *adult education* is used within this statement. It involves the use of *adult education* to describe *further education*, whereas the White Paper uses *further education* to describe *adult education*. A salient point made by Jarvis (1995, p25) in the context of adult education is also relevant to illustrating just how confusing the post-compulsory sector of education can be. He claims that "as the

[2] http://www.education.ie (24-11-13)

education of adults began to develop, there was considerable confusion and overlap between the different terms; indeed, there still is". It is arguable that this is still the case now and is equally applicable to FE. The plethora of terminology involved in the discourse on FE, although not necessarily substituting for it, includes, inter alia: lifelong education; permanent education (O' Sullivan: 2005, p503); initial vocational education and training (DES: 1995, p75); vocational education and training (ibid., p73); community education; second-chance education; adult education; recurrent education and training (ibid., p75); and continuing education and training. Hence, the following sections will critically discuss some aspects that are relevant in an attempt to define FE for this study, particularly with regard to higher education (HE).

2.1 FE AND HIGHER EDUCATION

Complications in defining FE are compounded by the fact that some regard further education as part of the tertiary education system even though some understandings of FE clearly stress a distinction. Traditionally, HE is regarded as a more advanced form of learning. But it is not easy to define HE anymore so than further education (FE). To illustrate, sometimes HE is defined by way of institution. For example, in an early report, the *Report of the Commission on Higher Education* (1967, p3) in the Republic of Ireland chose to illustrate the idea of higher education by mentioning the institutions that traditionally provided it. But this has become blurred by the fact that Irish institutions of technology, regarded by many as higher education institutions (Hunt Report: 2011, p41), often provide further education, just as further education colleges in England and Wales provide higher education. This particular aspect was discussed in England in the report

Understanding Higher Education in Further Education Colleges (2012). Furthermore, the Higher Education Opportunity Act, 2008[3] in the United States deals with aspects of education in Community Colleges which are arguably more like FE.

In the United Nations Educational, Scientific and Cultural Organization's (UNESCO) International Standard Classification of Education (ISCED), higher education seems to correspond to tertiary education and ranges from level 5 to level 6 in the 1997 version. The 2011 version still has tertiary education as beyond level 5 although there are more subcategories for HE. In the National Framework of Qualifications (NFQ) in Ireland, HE ranges from level 6 to level 10. This highlights an overlap, as the higher levels of the FE awards reach level 6 as well in, for example, an advanced certificate. In Ireland, the *Qualifications (Education and Training) Act, 1999* Section 10(1)a, although now repealed, allowed the National Qualifications Authority of Ireland (NQAI) to determine whether a particular programme of education and training could be classed as further education or higher education.

In England there is a separate framework, outside of the National Qualification Framework (NQF) and the Qualifications and Credit Framework (QCF) (the latter of which largely replaced the NQF for vocational qualifications in 2010), called the Framework for Higher Education Qualifications (FHEQ). In the QCF, higher education is also represented by levels 4 to 8, but for work-related qualifications. Obviously attempts are being made to join aspects of accountability and human capital for those who participate, as well as highlighting the education/economy/employability (eee) link.

[3] Section 801

A work related reference clearly acknowledges the eee link for those who participate in human capital acquisition and the accountability for same is stamped by attaching a qualification label to it. But the assumption is that an even playing field exists for all. There is a failure to acknowledge the influence of power struggles. The marketisation of the labour market which is influenced by skills mismatch, the academic/vocational divide and the domination attached to economic capital are just some of the contexts within the participation, accountability and human capital discourses that are critically analysed in this thesis.

Although it should be understood that an unequivocal definition/understanding of FE is beyond the expectations of this thesis, the next two sections will discuss some issues as the thesis builds to a working definition/understanding of FE on which to base the progress of the present work. The use of an ideal type or yardstick definition for FE is sought so as to enable a comparative study.

3 OBJECTIVE BASIS OF DEFINITION?:FRAMEWORKS AND LEGISLATION

Relying on a meaning from a dictionary might suggest an interpretation of *further* as meaning *additional* education. More specifically, the Little Oxford Dictionary[4] provides a meaning of Further Education as "education for persons above school age". The Further Education sector in this understanding could mean any learning after compulsory schooling. This encompasses far too many other aspects of the education system to be of any real use for the differentiation of Further Education.

[4] *The Little Oxford Dictionary of Current English*, Sixth Edition, Edited by Julia Swannell, (Oxford: Oxford University Press, 1986)

In a brief description of the Irish education system from the Department of Education and Science[5], Further Education has been placed at the International Standard Classification of Education (ISCED) level 4. Labelling further education at level 4, although helpful, requires further elaboration because of the inclusion of second chance education within FE. Second chance education may involve lower levels on the classification system such as leaving certificate. On a national basis, the National Qualifications Authority of Ireland (NQAI) as was, placed FE in the sections of level 1 to level 6 of the National Framework of Qualifications. This is drawn from the understanding that the Further Education and Training Awards Council (as was) gave awards at this level. Notwithstanding this, neither the courses nor the type of education involved at these levels is elaborated upon, and there is, at level 6, an overlap with the Higher Education and Training Awards Council (as was). The National Qualifications Framework in the UK was enlarged from the former six level scale to a nine level scale in September 2004. The FE sector outside of a higher education level standard is encompassed in the scale up to and including level 3. The Qualifications and Credit Framework (QCF) for England has comparable levels and has largely replaced the NQF. If the Foster *Review of the Future Role of Further Education Colleges* (2005) in the UK said that the "current qualifications system is confusing and complex"[6], it must be considered if it is more so now at the time of writing in late 2013.

[5] Department of Education and Science, *A Brief Description of the Irish Education System*, undated

[6] www.dfes.gov.uk/furthereducation/fereview, *Realising the Potential: A Review of The Future Role of Further Education Colleges*, November 2005, p71

In England, the *Further and Higher Education Act (UK), 1992* section 11 illustrated a statutory definition of further education. It excluded courses of higher education. It also excluded secondary education. It went on in section 14 to further enhance the definition. However, sections 10 to 14 have been repealed by the *Education Act, 1996* and the definition in section 2 of that act is less convoluted. There is a very succinct definition of further education given there, which consolidates that in the *Further and Higher Education Act (UK), 1992*. However, it does include leisure pursuits together with non-leisure education. The substance of the definition is concise to cover what is perceived as every possible eventuality. Just as is the case in the Republic of Ireland, there is no mention of a return to education being necessarily involved. In the context of employability for the present study, differentiation is needed when the further education sector is split into the leisure pursuits that do not normally provide a qualification, and the aspects of further education that do provide a qualification.

4 FE OBJECTIVES: CULTURAL INFLUENCES

Another starting point for any attempt to define FE as a sector of education is the issue of what it is meant to achieve, which can manifest the cultural influences within society. In the Republic of Ireland there are, inter alia, 4 pillars on which the White Paper on Adult Education (2000, p86) claims to be basing the programme for second-chance and further education:

- national adult literacy programme as top priority

- back to education initiative (BTEI), part-time options being significantly expanded and particularly hoping to promote learning for those without upper secondary education
- ICT basic skills programme as part of BTEI
- increased flexibility and improved organizational structures for self-funded part-time adult education in schools

It is arguable that, in both the Irish Republic's White Papers on education and adult education respectively from 1995 and 2000, there is a consensus that the objective of FE is *educate to employ*. This focuses attention on a number of aspects of education. For example, the curriculum might be judged as an important facet to be considered and what Mulcahy (1981) says of post-primary education in this regard is also valid for FE:

> *Aims specify the ends or kinds of development in pupils which are to be sought. Curriculum, in its broadest sense, is seen as the means to promote this development, to achieve the ends or values in view*. (Mulcahy: 1981, p6)

The mention of aims reminds us of Biesta's (2011) mention of an *educational culture* as a "learning culture that is framed by particular purposes" (p199). The economy and its development, particularly with regard to the potential for inclusion when discussed in the context of FE is another facet that may be seen to emanate from the philosophy of *educate to employ*.

In the Irish Republic's White Paper *Charting our Education Future* (1995), post-leaving certificate courses and off-the-job training for apprentices were mentioned as the main

courses available in the vocational education and training sector of FE. The post-leaving certificate courses were claimed as being "based on a strong foundation of general education" (ibid., p74). These, along with the apprenticeships, and indeed all vocational education and training, were meant to benefit the students, society and the economy (ibid., p73). In mentioning a rationale for future development, economic growth is implied as the main purpose of these courses:

> *The achievement of economic growth and development is dependent significantly on the availability of suitably qualified and adaptable personnel with the necessary personal and vocational skills ... Initial and recurrent education and training programmes have a vital role in the enhancement of economic performance.* (ibid., p75)

The economic objectives of FE are also prominent in England. It has been stated that the general aim of statutory education[7] in England, which encompasses primary, secondary and further education is[8] "...to contribute to the spiritual, moral, mental and physical development of the community." According to EURYDICE (1999, p26) on the United Kingdom:

> *It is now generally recognized that education institutions, particularly at the level of secondary and further education, also have a duty to prepare their students for future employment and for lifelong learning.*

In a recent review of the future role of further education colleges in the UK (Foster, 2005), purposes of the FE sector are looked on as threefold. Two of these have obvious connections with employability and inclusion. These are building vocational skills dealing with the preparing of people for employment or upskilling within the system of employment, and promoting social inclusion and advancement.

[7] Education Act (UK) 1996, section 1(1)
[8] Education Act (UK) 1996, section 13(1)

Notwithstanding these purposes, it is also claimed in the Foster review of the future role of further education colleges that with the consultation of stakeholders, it came down in favour of building skills for the economy as a preferred core focus for FE. This, it is also submitted, is being "interpreted in line with values of opportunity and inclusion" (ibid., p22). Moreover, in the United States, the drive to a reduction in the welfare state in conjunction with a philosophy towards enhancing the "productivity and competitiveness of the Nation"[9] is visible in legislation like the *Workforce Investment Act, 1998*, which is a piece of legislation with a strong postsecondary education focus. More recently, Barack Obama's *American Recovery and Reinvestment Act, 2009* turned what could be regarded as a financial coping strategy into a potential reform strategy (McDonnell and Weatherford, 2011) and *A Blueprint for Reform* (2010) from the US Department of Education, further emphasized the connection between education and employability as a priority. The European Union (EU) has also had a strong vocational training policy agenda for many decades and Clemenceau (1994) mentions how this policy line was particularly firm from the mid-1980s. It is still a relevant policy focus now (late 2013) as, for example, the European Council (2012) stated an expectation for member states to establish initiatives on employability.

5 TOWARDS A DEFINITION OF FE

Within the overarching concept of lifelong learning or indeed permanent education, to which all education arguably belongs, there is a clear overlap between FE and both adult education and continuing education. In a similar vein, the terms community education and second-chance education can be part of adult education and FE without major

[9] Workforce Investment Act, 1998, Public Law 105-220 See for example Title 1, Subtitle B

conflict being caused to either understanding. It is clear that for the purposes of clarity and focus in this study, it will be necessary in the light of this consideration of conceptualization and typologies of post-compulsory education, that choices involving inclusion and exclusion of ideas will be necessary in providing an operational definition of FE.

For the purposes of this study, FE will be taken to include part-time or full-time learning. It will also be consistent with the principle of a lifelong learning strategy. Even though the term *initial* may be regarded as obsolete due to the concept of lifelong learning encompassing learning throughout life, further education in this study may involve initial and post-initial education in the front-end model sense. It will involve vocational education and training that is tied to the understanding of FE here but could include other learning. It will include community education and second-chance education that involves vocational certification or is tied to further educational progression through the use of certification. Moreover, FE in the manner in which it is used in this study will include both adult education, as it will involve the return to education for some, and education of adults, with similar issues of certification. It will involve learning after compulsory school age, except second level progression to leaving certificate on an uninterrupted basis on reaching the limit of compulsory schooling. It will also exclude higher education. It will also exclude leisure activities. Even though continuing education is vocational in nature, it is not always certified and is usually for those in employment. So unless it involves upskilling with a qualification, it will not be regarded as FE here. Certification is based on levels 1-6 on the National Framework of Qualifications outside

of the higher education system, which will limit some of the areas already accepted as part of the FE sector, like those within second-chance and community education.

The lengths of courses are not always defined rigidly but are normally learner standard specific. This entails reaching a standard that suits the learner. However, because the content of learning tends to be to allow progression to employment or further study, the institutions in question will tend to deliver the modules over pre-defined time spans. The institutions can involve, inter alia, second level institutions with FE branches, FE Colleges and even some Higher Education Colleges. The accepted definition of FE here serves somewhat like an ideal type as described in Weberian theory. Bancroft et al (2010)[10] describe this ideal type as "an analytical construct that serves the investigator as a measuring rod to ascertain similarities as well as deviations in concrete cases. It provides the basic method for comparative study". The objective of FE as outlined above, tends to be primarily to aid the economy in the long term. With the latter point in mind, the study will discuss some aspects that are relevant to the debate on the development of skills for the economy in the form of employability. It will prioritize post-compulsory youth education and so will concentrate where appropriate on the 16-24 year old age cohort. It will highlight the manner in which this aspect is debated. Although not associating FE with the educationally disadvantaged only, there will be particular attention in this thesis to the consideration of principles of participation in FE by the educationally/socio-economically disadvantaged, accountability for provision towards employability and deliberations on facets of the public/private good debate of human capital. The 2011-12 statistics from the Irish Department of Education and Skills

[10] See http://www.cf.ac.uk/socsi/undergraduate/introsoc/weber7.html

demonstrate a decrease from within the 16-24 year old age cohort in the full-time education percentage rates (see p39 below). If an eee link is accepted as viable, there is clearly some suggestion of educational disadvantage in the Irish statistics for some of those starting out on their adult life or at a crucial point of possible 'transition to and participation in' FE. This suggestion will be critically analysed with reference to the FE sector. Having examined some of the parameters of FE, we now turn to the other construct central to this study, that of educational disadvantage and its connection with employability.

6 EDUCATIONAL DISADVANTAGE

Employability interventions in any jurisdiction could suggest a discourse on the notion of careerism or a channeling of pupils "into different kinds and levels of work" (O' Sullivan: 2005, p148), but it could also suggest more educationally disadvantaged oriented employment preparation/opportunity engagement. The position in this present work is developed from the understanding that the former notion of careerism can be described in the sense used by O' Sullivan (2005, p125) as an education wide phenomenon. The latter as an employment preparation/opportunity is directed at aiding the educationally disadvantaged. In other words, employability here is less about the individual and more about enhancing the mobility of educationally disadvantaged students. For this reason, a brief indication of the conceptual arguments and discourse on educational disadvantage is provided before expanding the discussion to employability.

The 1960s tend to be seen as something of a pivotal period in this regard. It has been argued by Boldt and Devine (1998, p8) that since then, the construct of educational disadvantage "... differs substantially in its nature and understanding from that experienced and researched prior to the 1960s". The source of this change can be seen in the United States (US) with such initiatives as the *War on Poverty*. This is described by Germany (undated) as an "ambitious governmental effort to address the problem of persistent poverty in the United States"[11]. In Britain and Ireland, a major factor that influenced professional and political thinking came in the form of the *Plowden Report* (1967) in England. That Report announced a perceived problem but it appeared that finding a solution would prove more intractable. As O' Sullivan (2005) describes, the text pushed the idea of positive discrimination and "as well as policies to combat poverty itself, educational interventions … are advocated" (ibid., p313). The result is an extensive literature around issues of identification, intervention and definitions of disadvantage.

Natriello et al (1990) have pointed to at least two sides in the discourse about where efforts to alleviate the perceived problem of educational disadvantage should start. On one side, they point to those who claim that we must identify the alleged disadvantaged to solve the problem. On the other side, are those who say that identifying them may lead to a self-fulfilling prophecy where teachers and students alike will accept the status quo. Also, there are those who say that attributing disadvantaged status actually locates the problem in the students themselves (ibid., p3). Locating the blame denies the ideological and power distributed influences that are characteristic of many Western societies such as Ireland, England and the United States. These influences are crucial in critically

[11] http://faculty.virginia.edu/sixties/readings/War%20on%20Poverty%20entry%20Poverty%20Encyclopedia.pdf

analyzing aspects of participation, accountability and the public/private good debate with regard to human capital. Natriello et al (1990) settle for a particular line of argument by saying that the disadvantaged have to be identified but only if this information is used to solve the problems in the institutions that may perpetuate the dilemma (ibid., p4).

In Ireland, the Educational Disadvantage Committee (EDC) (2003, p12) at their inaugural meeting expressed the view that there is "no single accepted definition" of educational disadvantage, but "it is agreed that there are many dimensions of disadvantage". For example, target age and educational level have become issues in the discourse on disadvantage. Cox (2000, p266) is of the opinion that disadvantage is not only relevant to the compulsory stages of education but that the true success of programmes within these stages can only be judged on how well a so-called disadvantaged pupil's earlier education prepares for future education. It has also been claimed by Mortimore and Whitty (2000, p157) that not all those who could meet the criteria for inclusion in the disadvantaged category, on the basis of such objective factors as parental and home circumstances, will actually exhibit educational disadvantage. Archer and Weir (2005) in a review of the international literature have pointed out that where there are definitions, there is recognition of the "limited nature of current definitions of disadvantage" (p6), "... the weakness of the knowledge base ... the inconclusive and sometimes contradictory nature of research findings ..." (p33).

The definition of educational disadvantage that follows is based on the understanding that, as a field of knowledge and practice, *educational disadvantage* can be discussed in

terms of explanations, terminologies, interventions and interlinked definitions. The next section explores some manifestations of educational disadvantage pertinent to FE in the form of employability, which is the core function of this chapter, so as to allow the articulation and conceptualization of employability as it will be discussed in the later case studies of England, United States and the European Union for comparative insights for Ireland..

7 EDUCATION, DISADVANTAGE AND EMPLOYABILITY

Stemming from a MORI survey from 1998 in England and Wales, Cox (2000) highlights some data that is similar to research findings in Ireland from the same year and which relates to the age cohort of 16 plus. The former found that:

> *those from lower social class households, the retired, and those with no qualifications were less likely to be currently involved in learning, or to express a desire to be involved in learning in the future. They were also less likely to feel that learning was important or enjoyable.* (ibid., p141)

This highlights the impediments involved when it comes to re-engaging with the education system for those from lower social class households and those with no qualifications. The Irish survey in 1998 involved a group studied for up to 6 years after leaving. In giving an indication of figures, Hannan et al (1998) claim that:

> *Only two per cent of those without any qualifications or with a Group Certificate ever return to full-time education, or get any subsequent educational qualifications ... For those leaving with an Intermediate Certificate, subsequent educational chances are only slightly better ... If one doesn't continue full-time education immediately upon completing second level, subsequent chances of recovery are slim indeed, particularly for the most poorly educated ... Even amongst those with a Leaving Certificate, however, there is very little delayed "return" to full-time education.*

Whereas it should be pointed out that Hannan et al (1998) do treat post-school full-time educational qualifications as separate to the post-school full-time vocational training system, as conducted through FÁS, CERT, TEAGASC, BIM, Community Training Workshops and the like, the emphasis is not lost as a result.

They put this point about educational qualifications down to the rigidity of the Irish further education system claiming that it is an "extremely rigid time- and age-bound system from the perspective of the potential student --- particularly the poorly educated student" (ibid., p43). There seems to be an implication of a rigidity that particularly affects the disadvantaged. Ten years later in the School Leavers' Survey Report (2008) the percentage participating in some form of post-school education or training was still very much dependent on qualification. To illustrate, while 85% of those completing the Leaving Certificate in 2005 were participating, only 52% of those who had left before Junior Certificate were doing so. For the 2011-12 statistics the amount of full-time students drops dramatically after 16 years of age from 99.2% at 16 years of age to 67.6% at 19 years of age to 14% at 24 years of age.

7.1 EMPLOYABILITY AS A PARADIGMATIC DISCOURSE

As mentioned in a previous section, the conceptual understanding of educational disadvantage influences how the concept of employability is discussed within this thesis. This is due to the consideration of employability as an educationally disadvantaged oriented employment preparation/opportunity engagement concept. Jurisdictional efforts that claim to combat educational disadvantage and influence employability can reflect a

stance taken. The critical analysis of aspects of employability is therefore influenced by ideological positions on disadvantage taken at national and international level and as these positions involve strategies or discursive products, these latter aspects must be expanded upon. Discourse themes are not so much simply descriptive as strategic. For example, the construct of disadvantage in Ireland, in the efforts to improve educability, has been encompassed primarily by an active (focusing on dealing with through intervention) rather a theorizing (focusing on understanding for consensus/agreement) vernacular (See O' Sullivan: 2005, p321). In fact O' Sullivan (2005, p322) goes so far as to say that "there is discouragement to enquire further, and for the moment and in particular settings how disadvantage is to be understood is fixed ...". Other ideologies will be investigated more specifically in the case studies presently.

However, this does not indicate stagnation of thought and O' Sullivan deals with the polyvalent conceptualization of employability, a policy paradigm of particular interest to the age segment under study here.

> *.., employability addresses, and in the process constructs, the needs of those whose chances of labour market entry are most precarious, and posits the capacity to find paid work as the crucial attribute which can rescue them from reliance on social welfare and the experience of social exclusion.* (ibid., p275)

Those who fulfill the criteria within this outline, on a prima facie basis, include those with few or no educational qualifications. However, labour market entry may only be one aspect, and retention of employment as referred to by Green and Turok (2000, p599), progress in employment with the likelihood of increased remuneration and an ability to

change employment, may also be part of what is described as employability, an aspect arguably posited by its polyvalent conceptualization.

O' Sullivan (2005, p276) argues that the construct of the employability paradigm in Ireland evolved with the curriculum development initiatives of the 1970s, although the paradigm is described as in a "muted and unexplicated form" (ibid.) in the earlier stages. This suggests that the understanding of employability as a discursive product with regard to the subordinated position of the educationally disadvantaged in the labour market, took some time to reach a definite status. McQuaid, Green and Danson (2005, p191), while mentioning how it was as far back as the early 1900s when *employability* generally emerged as a "concept in debates surrounding unemployment and labour markets", claim that the mid-1990s saw it begin to command a "central place in labour market policies" in many jurisdictions. The central place for the discourse on employability and the relation with social inclusion/cohesion within the EU from the mid-1990s (Gleeson: 2010, p187) was particularly influential as the Essen strategy, Amsterdam Treaty and Luxembourg Jobs Summit all played a part in emphasizing the knowledge economy and establishing employability as a predominantly individualistic concept. It could be contended that changing economic conditions and priorities have seen it change its basis from a life chances issue to an economic one. This makes it part of the public good/private good debate which will be explored in detail later in terms of human capital in chapter four. Of relevance to this discussion is the rise in popularity of the discourse on the knowledge economy in capitalist societies and how human capital has been enveloped in this discourse with regard to individual responsibility for employability and on a collective

basis, in respect of competitiveness and productivity for globalization. The accountability for participation in human capital acquisition seems in either case, whether for individual or collective benefit, to be assigned to the citizen. The power disparities within the population are assumed to be surmountable if such is the case. The eee link is accepted in such circumstances without appropriate critical analysis to ascertain the possibilities of how this power gap alleviation can be achieved.

Discursive criteria within the remit of the employability paradigm in the literature are numerous. Apart from curricular changes that have been proposed as necessary by some, Hannan (1986, pp1-3) has mentioned that the conventional attitudes and practices of teachers, school administrators, pupils and parents could do with changing. Hannan also claims that:

> *... it would be wise to evaluate the effectiveness of specific curricular interventions in the wider context of possible alternative arrangements: ... of changing the "rules of the game" for access to training, apprenticeship, or 3rd level: ... or of intervening at a later post-school stage*. (ibid., p57)

It is possible to see the prophetic nature of some of his ideas with respect to post-school methods in view of the White Paper on Adult Education (2000) and other contemporary views on lifelong learning. Other discussions surrounding employability, like those of Kellaghan and Lewis (1991), although not directly stating the term, have questioned how the Irish education system has been engaged with this area:

> *Very often, programmes were reactive rather than creative, a response to the economic crisis and chaos created by the high level of unemployment which disproportionately affected young people...* (ibid., p13)

Kellaghan and Lewis, in their discussion, paraphrase an OECD document and question whether preparation for working life would have become a salient educational issue if

school leavers had been able to get into the labour market in the first place. This implicitly puts a question mark over the paradigmatic, indeed doxic[12] status (penetrates all aspects of life and no recognition of another reality) of employability discourse.

In attempting to produce progressive and alternative viewpoints and arguments, Kellaghan and Lewis (1991) discuss the education system's subservience to the economic system, a point that cautions against ignoring non-school practices. Conversely, Hannan (1986, p61) disputes this subservience:

> *To an extent the education system is autonomous, however, so that what it currently "produces" or reproduces facilitates, limits or conditions the way the economy and the polity works.*

These alternative viewpoints are also seen in the discussion with regard to the narrow and broad understandings of employability to which we now turn.

7.2 NARROW AND BROAD UNDERSTANDINGS OF EMPLOYABILITY

Verhaar and Smulders (1999) suggest that employability for low-skilled workers could be related to aspects of social theory with regard to, for example, the need for persuading/convincing them of the need for upskilling that is valued for personal long term applicability, more so than economic theory which may take the individual or collective economic benefits from formal qualifications for granted. To illustrate, in suggesting that learning while in employment without formal training and education could be acknowledged by accreditation of prior learning (included in the recognition of any learning whether formal, non-formal or informal learning (National Qualifications

[12] Denis O' Sullivan, *Cultural Politics and Irish Education Since the 1950's: Policy Paradigms and Power*, (Dublin: Institute of Public Administration, 2005), p288 and p38 for explanation of doxic status

Authority of Ireland, 2006)), they see a benefit in this for the employer/employee relationship and a possible method of breaking down the barriers that many low-skilled workers encounter toward education. This, in turn, could lead to more formal learning which could aid economic aspects, a point not denied by Verhaar and Smulders.

Illustrating a contrast to the suggestion of aspects of social theory dominance, McQuaid and Lindsay (2005) contemplate a stronger economic influence in employability based policy although not denying the social aspect. They first outline what they consider a narrow view of employability and the limitations attached to it. They argue that this sets out to concentrate on the individual's skills which they imply is largely because of an "emphasis on skills-based solutions to economic competition and work-based solutions to social deprivation" (ibid., p202). Cook et al (2001, p14) have argued that "relying on paid employment, as the principal means of combating social exclusion is both unrealistic and ill-founded". They follow this by suggesting that the concept of workfare needs to be complemented by measures "which harness people's abilities to help themselves and others, especially in deprived populations" (ibid., p23) by the use of informal work. This has a direct application to local/geographical initiatives. Campbell (2000), although also arguing for the "localization of employment policies", submits that:

> *This involves more than geographical targeting and local implementation. It involves the local design and management of relatively autonomous policies – relative in the sense of being conducted within a wider regional and national strategic framework.* (ibid., p666)

Notwithstanding the argument in favour of relative local autonomy, the emphasis is on paid employment.

While McQuaid and Lindsay (2005, p202) claim that much of the direction of employability within labour market policy "leans heavily upon its individual-centred, supply-side components", they suggest that the proper version of employability, although not universally delineated or effectually utilized in policy, is "interactive employability". A discursive concept that emerged from the United States and that began to gain international recognition for policy efforts with varying success from the 1990s, it covers a *broad* view of employability which although acknowledging skills acquisition also sees the:

> … *importance of the geography of labour markets, issues surrounding travel to work, employer attitudes and behaviour, demand within local economies and other 'context' factors impacting on the experiences of job seekers*. (ibid., p205)

As with the mention of geographical issues by Campbell above, this also has a basis in formal work. The extent of formal work geographical differences in employability debates is a point further acknowledged by Theodore (2007). Moreover, in the employability discourse, employer practices have also been highlighted. It has been claimed by Breen et al (1995, p59) that the Irish education system is not normally regarded as strongly connected with the education or training for specific occupations, outside of third level institutions.

Whereas this is claimed, a seemingly contradictory position announces that nonetheless employers use the output from education in the form of examination success to employ. It also points to the fact that this is usually aimed at second-level qualifications for those making a difficult transition from school to work, which in turn might suggest a problem of legitimacy with regard to FE qualifications in the eyes of employers in Ireland.

> *... one consequence of the existence of such a widely recognized credentialling system is that it may make it more problematic to design post-school interventions to assist those young people who do not make a successful transition to the labour market. This is because the certification or skills provided by post-school interventions are not criteria employers normally use in recruiting.* (Breen et al: 1995, p71)

MacBeath (2000, p248) demonstrates what he sees as the importance of all learning in paraphrasing the European Round Table of Industrialists who maintain that there are 5 phases in the chain of learning to include Pre-school education, Basic school education, General and vocational education, Higher education and Adult education and Macbeath then claims that "it is in the links of this chain that social exclusion starts, or more accurately, is recreated from generation to generation (ibid., p248)". The question arises as to where FE in Ireland can be accommodated, in terms of avoiding any breaking of links within this progression so that employability aspects can be strengthened. Furthermore, the question arises as to whether the conceptualization of disadvantage and employability are focused enough to align FE and employability within the education/economy/employability link.

8 CONCEPTUALISING EDUCATIONAL DISADVANTAGE

Conaty (2000, p39), in discussing what she calls marginalisation, states that the term is an ambiguous one, and depends on the perspective of the commentator. All however, whether policymaker, educator or social scientist, focus, she says, on how "to ease the effects of disadvantage on individuals and groups and, if possible, to break the cycle of disadvantage" (ibid., p40). In conjunction with a view of what constitutes a marginalised pupil, she says that the community in marginalised areas often has "a reduced ability to

cope", and follows on by saying that this can perpetuate "the cycle of disadvantage and educational failure" (ibid., p40). There is a need to critically conceptualize the nature of disadvantage. The following sections critically analyse some aspects of this.

8.1 CAPITALS: TOWARDS A MORE AGENTIC VIEW OF DISADVANTAGE

While it was reported in 1998 that there was no policy initiative "to clarify the precise meaning of educational disadvantage nor to explain its prevalence" (Boldt and Devine: 1998, p11), the *Education Act, 1998* Section 32(9) as was (see also the *Education (Amendment) Act, 2012* which continues with the same definition) gives it a meaning using the following terms:

> *In this section "educational disadvantage" means the impediments to education arising from social or economic disadvantage which prevent students from deriving appropriate benefit from education in schools.*

Whereas this gives a legislative acknowledgement to the term educational disadvantage, it does not provide much by way of explanation. The defining function of the statute (setting the parameters of engagement and pinpointing who or what is affected) is not well catered for (See appendix I for more in-depth explanation of this and other legislative functions). The definition does not highlight what it considers the impediments to be, nor does it elaborate on what is deemed to be appropriate benefit. Most importantly, it is silent as to what the understanding behind social or economic disadvantage might be. It fails to distinguish properly between the 4 main types of educational disadvantage or equality issues in education identified by the National Education Convention (NEC) in Ireland in 1994 (National Education Convention Secretariat: 1994, p106). These were identified as socio-economic, gender, education for

special needs and education of Travellers. It has also been mentioned by Kellaghan (2001, p3) that the definition is inadequate because it does not engage the inter-dependence of key cultural factors. Kellaghan (p5) quotes a widely acknowledged definition and qualifies it further with a footnote:

> *... a child may be regarded as being at a disadvantage at school if because of factors in the child's environment conceptualized as economic, cultural and social capital, the competencies and dispositions which he/she brings to school differ from the competencies and dispositions which are valued in schools and which are required to facilitate adaptation to school and school learning ... The definition does not apply to children with physical, emotional, or mental handicapping conditions or specific learning difficulties, though some children who live in communities/families associated with educational disadvantage may suffer from such conditions.*

He describes economic, cultural and social capital as follows:

> *Economic capital relates to the material, particularly the financial, resources that are available to families and communities. (... unemployment, possession of a medical card) ... cultural capital would seem to be the one most closely related to the cognitive competencies and dispositions involved in scholastic achievement (... books, dictionaries ... parents' occupation; their level of education; the quality of adult-child interactions; and parents' expectations for children) ... social capital is considered to be embedded in relationships between individuals in informal social networks. (... norms, values, and patterns of social interaction in families and communities)* (Kellaghan: 2001, pp 8-12)

In terms of the widely acknowledged definition on educational disadvantage that Kellaghan uses, the competencies and dispositions referred to, which are meant to include the aforementioned key cultural factors which were felt by Kellaghan to be missing from the definition of educational disadvantage in the *Education Act, 1998*, include cognitive development and academic achievement, conduct (which would include the ability to make decisions in terms of aims in life), and finally, social behaviour and self-development (which would include a drive to succeed) (ibid., p6). Bourdieu's (1997)

description of the forms of capital (in particular economic, cultural and social) illuminates somewhat why Kellaghan assigns such strength to the last definition. These forms of capital will be discussed in more detail in chapter four on some key cultural practices.

The concept of capital can be used to explain how the lack of academic achievement can be rationalized by referring to cultural capital. If, for example, there is a lack of objectified cultural capital in the form of books or other useful educational stimuli, there may be a concomitant lack of embodied cultural capital in the form of understanding and suitable learning dispositions. This is even more important as the embodied cultural capital, which is closely related to the concept of habitus ("how objective structures and subjective perceptions impact upon human action" (O' Brien and Ó Fathaigh, 2005)) is specific to an individual. The end result may see such individual lacking in institutionalized cultural capital or qualifications and hence employability as judged by employers. It is worth noting that the institutionalized cultural capital and the potential within to boost employability, may be adversely influenced by the aforementioned legitimacy problems sometimes associated by employers with FE qualifications when compared to HE qualifications. These legitimacy problems might arise because of, for example, a suggested reticence in Ireland to recognize FE qualifications for employment due to the historically uncoordinated nature of the sector. This will be discussed later in connection with national frameworks of qualifications.

Social behaviour or relationships with people can be aligned with social capital to explain how a difference in available relationships can influence participation. This can be used, for example, to explain how increased social capital in the form of learning partnerships or more powerful interest groups ("actual or potential resources" (Bourdieu: 1997, p51)), can lead to better chances of acquiring other forms of capital. This results from the suggestion by Bourdieu that all capital is convertible (ibid., p54). However, social capital may serve to empower the individual more than the community (O'Brien and Ó Fathaigh, 2005). Notwithstanding, Brown (1997) questions the inevitable reproduction of the middle-classes and essentially questions the immutable nature of explanations provided by capital.

In doing so, he credits what he sees as a trend within more recent employer practices for forecasting possible change. The claimed indication is that the elevation of aspects of drive and determination curb the sway of institutionalized cultural capital and demonstrate flexibility. The assumption is that an individual empowerment from employers may become a collective transformation of the disadvantaged. Notwithstanding this apparent naivety, he is aware that superior economic capital may counteract the ability of the disadvantaged to arrest the dominance of other social classes/groups. Therefore, far from being dismissed as a "zombie category" (Reay: 2006, p288), social class dominance resurfaces in Brown's argument. Nonetheless, the eee link being discussed in this present work is being critically analysed for insights into increasing the possible participation by the disadvantaged in a just society. The increase of participation in a just society as opposed to the necessary erasure of social class

structures is a platform for critical analysis. The issue of dominance and the relation to ideology are discussed further in chapter three.

8.2 EDUCATIONAL CULTURE AND EQUITY

Natriello et al's (1990, p13) definition of educational disadvantage is another worth investigating to aid with the conceptualization of educational disadvantage. In mentioning the three domains of formal schooling, family and community and their interaction, they state that "students who are educationally disadvantaged have been exposed to insufficient educational experiences in at least one of these three domains". This definition aims broadly at environment, when it deems school, family or community (and their implied interaction) as being possible sources of educational disadvantage. The definition attempts to avoid a claim of deficient culture. While any claim of educational disadvantage is normally recognized through formal testing in school, this arises due to accountability issues whereby schools are expected to evaluate their success or otherwise. However, the testing does not make adequate allowances for individual differences of embodied cultural capital nor to ideological forces. These ideological forces are discussed in detail for the jurisdictions under study.

Moreover, Biesta (2011, p202) mentions that "a cultural understanding of learning … implies that learning is not simply occurring in a cultural context but is itself to be understood as a cultural practice". The implication is that an educational culture has to be established whereby the learning cultural practice has an obvious purpose to the learner as an individual. The idea of objectified cultural capital which represents knowledge in

books and other educational materials involved in any school learning has to become part of the habitus of the learner and relate to embodied knowledge already acquired by the learner elsewhere. Aspects of this idea can be seen in a report from 1998 by the Combat Poverty Agency (as was) where educational disadvantage is defined in two separate but arguably related ways. The first, which is of relevance at this point, deals with the formal system (and the second will be dealt with presently):

> *In relation to a student in the formal education system, educational disadvantage may be considered to be a limited ability to derive an equitable benefit from schooling compared to one's peers by age as a result of school demands, approaches, assessments and expectations which do not correspond to the student's knowledge, skills, attitudes and behaviours into which (s)he has*[13] *been socialised (as opposed to those to which (s)he is naturally endowed).* (Boldt and Devine: 1998, p10)

Here learning is presented in a more standardized way. Accountability is an issue with assessments and expectations. There is an evident acceptance of different cultures and difference in a deficit sense is obscured. The definition throws doubt on the concept of meritocracy (or ability and effort). It does mention limited ability but it pointedly excludes the abilities naturally endowed. It implicitly argues for a rights based approach since it ascribes equity as the basis for the benefit to be gained from schooling. This present body of work aims at looking at employability, particularly in the FE sector, and in the next section the conceptualization of educational disadvantage will be taken up with the foregoing and employability in mind.

[13] author added

8.3 EDUCATIONAL DISADVANTAGE/EMPLOYABILITY: THE FE CONTEXT

We now move to a consideration of educational disadvantage in the context of FE. As mentioned in its earlier treatment, FE, for the purposes of this thesis is to be understood as:

> *Post-compulsory education, either initial or post initial, other than higher education, leisure activities or second level progression to leaving certificate on an uninterrupted basis, that is part-time or full time and involves either vocational education and training or academic education, and includes certification. It could include community education, second chance education, adult education or other nomenclature that fulfil the above criteria. Lengths of courses could be 'learner standard specific' or more institutionally pre-defined and take place in accredited venues.*

This delineation of the FE sector will be investigated in terms of the experiences of those who are socio-economically and educationally disadvantaged and within the age segment 16-24 years old. In doing so, it is proposed to textualise the discussion in terms of employability, specifically the link between education and the economy. This link is conceptualized in the form of finding stable employment, mobility between employments, and progression in a given employment, within the direct environment of seeking further educational qualifications. Evans asserts that:

> *There is one issue which remains a key concern for all countries, and which has implications for the successful education and early experiences of children and youth. It is that the world's globalized economy demands its citizens become better educated if they wish to participate in the labour market and avoid the possibility of social exclusion associated with poverty and the denial of rights ... A further and very forceful pressure for change comes from the emergence of the so called 'knowledge economy' which is set to replace the current industrialized economies of many countries in the next millennium.* (Evans: 2000, pp209-210)

Here Evans' use of the words *world's* and *globalized* to describe the economy underlines what he sees as the importance of the education/economy link. Within this economic

environment, both governments and individuals are reminded of the need for successful education. However, there is an uneasy juxtaposition of responsibilities for governments and individuals.

The knowledge economy which according to the OECD (1996, p7) is suggested as "directly based on the production, distribution and use of knowledge and information" is deemed relevant to the globalized agenda and a state's economic competitiveness will be affected by this. The responsibility of an individual to be *better educated* is mentioned as if the *denial of rights* is placed within their power. Evans indicates that there is a realization that the interventionist agenda (or attempts at amelioration) on disadvantage is more than a moral issue. There is an economic issue also. In this realization the blame/expectation is put on the individual if they wish to participate in the labour market.

It has been acknowledged with regard to educational disadvantage that:

> *To a large extent, what is most important is to specify the term and set criteria which are agreed upon, which are measurable and which serve the purposes for determining the extent of educational disadvantage.*
> (Boldt and Devine: 1998, p8)

Because of the contention that educational disadvantage is such a broad area and definitions that cover the broad circumstances tend to be regarded as unsatisfactory as outlined above, it is arguably more relevant to look at specific dimensions of educational disadvantage and define these individual dimensions with a view to their investigation. Boldt and Devine have alluded to one such possibility but question its suitability if there is no reference to the person's position with regard to participation in the education

system and quote a publication on disadvantage, learning and young people to illustrate their point as well as referring to the National Economic and Social Forum:

> *The definitions of educational disadvantage in Crooks and Stokes suggest that the term refers to a lack of school credentials which reduce employment prospects. Such an understanding of educational disadvantage would seem to differ from more recent usage of the term ...The National Economic and Social Forum (NESF) seems to understand the term narrowly (as did the contributors to Crooks and Stokes eds., 1987) and does not offer any clear definition of educational disadvantage. It says "(educational disadvantage) ... must be defined in terms of the generally adverse outcomes for young people without formal education and qualifications"* (Boldt and Devine: 1998, pp9-10)

Boldt and Devine (ibid., p10) therefore offer definitions[14] based on being in the formal education system or left formal schooling where they gave the definition as follows for the latter:

> *In relation to people who have left formal schooling, educational disadvantage may be considered to be the condition of possessing minimal or no formal educational qualifications and/or being inadequately trained or without knowledge, skills, attitudes and behaviours associated with the demands of available employment, so that one's likelihood of securing stable employment is disproportionately limited as compared to one's peers by age.*

This highlights what the authors see as a relation between employability and education and the implied proclivity of employers to judge those without qualifications in a negative manner.

It is noteworthy that the environment can be complicated by the fact that:

> *Increased participation in the formal education system has led to a so-called 'qualifications explosion' with a much higher proportion of the population holding educational credentials.* (ibid., p21)

[14] See earlier for their definition relevant to being in the formal education system

Implied within the concept of a *qualifications explosion* is a possibility of credential inflation. If Labaree (1997) indicates that credential inflation is a requirement for more qualifications over time to acquire employment where skill level requirements have not increased, employability can be seen to be connected to more than formal qualifications.

In fact some aspects of the discourse on the *qualifications explosion* indicates support for Coffield's (1999) opinion that a general push on aspects of lifelong learning by governments is turning focus away from the need for social and economic reform. Power as evident from aspects of capital resurfaces as part of the employability paradigm again. There is an illustration within the concept of credential inflation of the concept of symbolic capital as described by Bourdieu (1997). The fact that a person's employability was once recognized by a certain standard of education could be deemed symbolically denigrated by someone else being perceived as more qualified albeit, for example, in the form of institutionalized cultural capital that has a skill level above what is required. The greater level of institutionalized capital may be regarded as superior to, for example, social capital by employers in the promotion of their competitiveness. Brown's (1997) *awareness* of a change within employer practices from the bureaucratic paradigm to the flexibility paradigm is worth mentioning at this point. This is the opinion that credentials are no longer the only criteria for employment and will be discussed further in chapter four.

The flexibility paradigm suggests that apart from credentials, there is a respect by employers for aspects of determination and drive (Brown, 1997). Here is displayed a

slightly different version of meritocracy to that normally considered in that ability and drive as opposed to ability and effort are seen as influential in the employment scene. The difference implied is that drive has more social capital elements within, whereas effort has more cultural capital (See Bourdieu, 1997). However, Brown (1997) does mention the possible influence of greater economic capital or the influence of the market on this flexibility paradigm, points that deflate somewhat the potential for belief in the switch within employer practices to aid the educationally disadvantaged.

Hannan (1986, pp57-60) also discusses schooling and the labour market, and highlights some important points specific to Ireland which suggests the opposite to a qualification explosion when looked at from certain perspectives. Apart from drawing attention to the instance that the less educationally qualified can find it harder to get employment whether times are economically better or worse, he also suggests that mobility within jobs (as promotion due to extra qualifications) has not been traditional in Ireland:

> *Besides the specific job training requirements there are other reasons to pay attention to the integration of education, training and occupational placement and mobility. In other industrial countries there appears to be a much higher probability of mobility from skilled manual or craft occupations through to higher technical or technological levels. If there has been any trend in Ireland it has been in the direction of closing off these occupational options --- both within firms and between educational/training sectors.*

Here, aspects of participation are deemed to carry forward into employment. This would not only militate against general mobility in employment but would also curtail those who want to avail of a second chance in education to help them improve their economic or employability position. The matter of balance is highlighted which encompasses that

between the possibility of a credential explosion and a need for more educationally qualified citizens who gain as a result.

9 THE IRISH POLICY CONTEXT

Thus far in this chapter there has been an attempt to conceptualise the concepts of FE and disadvantage. The concept of disadvantage has been discussed with a view to highlighting that employability is the concept of interest within the overall concept of educational disadvantage. The rest of the chapter will outline some aspects in Ireland relevant to FE. Some perspectives on the Irish agenda relevant to inclusion for disadvantage will also be established.

An archive document, from as far back as November 1973[15], which was a memorandum for the Government, mentioned the relative neglect of adult and out-of-school education in general. This was said while understanding that at that time the concept of permanent education and also the provision for adult, recurrent and other various kinds of informal education had been considered more important internationally in the previous 5-10 years. The Final Report of the Adult Education Committee from the same era recommended the use of legislation to give effect to the recommendations that needed it. A further example showing the salience of the Irish discourse on lifelong learning is the Kenny Report in the 1980s. Moreover, into the 21st Century the Educational Disadvantage Committee in their submission to the Minister in March 2004 again recommended legislation in their "priority areas for action within the adult and community education sector". Examples of legislative measures recommended included putting the National Adult Learning Council

[15] National Archive reference 2004/21/442, S18531A, File 26, CO1189(1)

on a statutory footing and the establishing of statutory leave from work for those below leaving certificate qualification level.

The student numbers in the FE and training sector and the awards granted therein are considerable. Quality and Qualifications Ireland (QQI) are the awarding body for what were Further Education and Training Award Council (FETAC) courses. The courses are provided by state, semi-state or private organisations. There are "over 900 registered providers offering programmes that lead to QQI-FETAC awards" (Condon et al: 2013, p56). The amount of students getting these awards in the 16-24 year old age cohort in 2012 amounted to 29% of all recipients and more than 40% of major awards went to this cohort in the same year (ibid., p61 and p63). The highest number of major award holders (the student recipients) to date occurred in 2012 and when compared to the year 2008, in 2012 there was an increase in the amount of major award holders by close on 75% (ibid., p57). Overall, there were nearly 300,000 awards accredited in 2012 (ibid., p58). It is noticeable in 2012 that the choice of courses (where major awards were accredited) from National Framework of Qualifications (NFQ) level 4 to level 6 is distributed throughout many fields of study. This contrasts with a dominance of general studies from NFQ 1 to NFQ 3 (ibid., p63).

The next section looks at the discourse in Ireland on FE and disadvantage in more depth. If this section has illustrated the considerable importance of the FE sector and the historical calls for legislation as well as a firm footing for out-of-school education, the next section will indicate, briefly, the level of progress up to the present. As the ultimate

objective is to seek comparative insights for Irish education, it is necessary to outline some relevant and contemporary aspects within the Irish scene for the comparative policy analysis that will ensue after examining the three jurisdictions of England, US and EU.

9.1 SETTING THE SCENE IN IRELAND

Although the present discussion is mainly rooted in the 1980s, it is noteworthy that on the 2nd November 1966, Mr. P J Lindsay was given a reply by the then Minister for Education (Mr. O' Malley), on a request for the statutes, statutory instruments, regulations, rules and orders "which apply to or are administered by his Department"[16]. In the reply, the Minister listed a substantial number of these which amounted to approximately one hundred and fifty. Despite this apparently large amount mentioned in the reply, any implication of a legal culture in the education system remained unconvincing.

There was further attention brought to the historical dearth of educational legislation in Ireland more than a decade later

> *Although the Constitution has set forth some fundamental principles on the rights and responsibilities of the state and citizens relating to education, a notable feature of the Irish education system is the paucity of educational legislation* (Coolahan: 1981, p159).

Although Coolahan expressed this early academic view, later in the 1980s, the then Minister for Education (Mrs. O' Rourke) acknowledged that the rules for national schools were not statutory (or based on legislation) but followed by saying that the rules had been afforded quasi-legal status in many court cases. She further followed that "the rules,

[16] Dáil Debates, 2 November, 1966, Volume 225, No. 1, p73, Col. 61

along with administrative circulars and directives have been treated as legally binding"[17]. Despite this, Deputy Higgins expressed concern at the idea of operating under quasi-legal rules. While Deputy Higgins was not referring to FE, the lack of an educational legislative culture was still a live issue.

Despite Minister O' Rourke's acknowledgement at the time of the deference shown by the courts, in the case of **O'Callaghan v Meath Vocational Education Committee**[18] the lack of statutory force attached to methods being used by the Department of Education was alluded to:

> *It is a remarkable feature of the Irish system of education that the administration by the Department of Education is largely uncontrolled by statute or statutory instruments and that many hundreds, perhaps thousands, of rules and regulations, memoranda, circulars and decisions are issued and made by the Department and the Minister ... not under any statutory power but merely as administrative measures. These measures are not, of course, illegal. But they have no statutory force, ...*
> (Suttle: 2011, p4).

Legislation did not deal substantially until the late 1990s with the compulsory age sector. The question can be raised if it deals with the post-compulsory sector adequately or appropriately even now. This arises as despite the *Universities Act, 1997,* there is no extensive use of FE specific legislation that outlines the sector adequately. Since there is a confused cultural tradition on FE, as it is a sector that is recognized but is not widely understood, this presents a major issue for the development of the sector. Throughout the various initiatives in the FE sector, it is arguable that the system is overly cumbersome and dispersed both with regard to general initiatives and those covered by legislation. This discussion does not aim to deny the fact that up to 2013 quite a bit of educational

[17] Dáil Debates, 13 April, 1989, Volume 388, No. 6, p8, Col. 1461
[18] O'Callaghan v Meath Vocational Education Committee, Unreported High Court, November 20, 1990

legislation[19] or educationally related legislation[20] was/is scattered throughout the statute book (more still has been repealed[21]). However, the dealing with substantive issues is in question.

The *Report of the Taskforce on Lifelong Learning* (2002), which was set up by the Department of Enterprise, Trade and Employment in collaboration with the Department of Education and Science, stated that:

> *... as the work of the Taskforce and its sub groups progressed, it became apparent that the mandate to develop a strategic framework [for Lifelong Learning][22] required more than the simple mapping and gap filling exercise envisioned in the terms of reference since many of the systemic and structural issues which will underpin the framework for Lifelong Learning cannot be captured by such a reductionistic methodology*
> (ibid., p6).

Since this taskforce envisaged social inclusion as a goal (ibid., p7) it may be assumed that FE should formally share a place with the other sectors in the Irish education system. Those points considered vital to its strategic framework include access, transfer and progression.

In March 2006, the Minister for Education and Science, Ms Hanafin acknowledged the contribution of FE in the struggle for inclusion:

> *Our higher and further education systems are now, therefore, essential contributors to national well-being. The benefits of lifelong learning for personal enrichment and development are well demonstrated. At a wider*

[19] Examples include Education Act, 1998; Education (Welfare) Act, 2000; the Vocational Education Acts, 1930 to 2006; Intermediate Education (Ireland) Acts, 1878 to 1924;
[20] Examples include Industrial Training Act, 1967
[21] Examples include Apprenticeship Act, 1931; Vocational Education (Amendment) Act, 1943; School Attendance Act, 1926; Labour Services Act, 1987
[22] author added

> *level, lifelong learning is key to building the overall skill levels of the population to meet our growing needs as a modern, high technology economy. Beyond the marketplace, it is central to wider personal and societal development through the promotion of social inclusion and citizenship*[23].

This would appear to illustrate aspects of government policy on FE and its use to promote social inclusion and human capital. On the same day, Deputy Enright mentioned that even though "the public is very clear on the role played" by the primary, second level and on an increasing basis, of the third level sector, "it may be less clear on the importance of the further education sector"[24]. While lauding the role that FE plays in providing educational opportunity to many, she followed this by saying that "Further education must also be put on a statutory basis"[25]. It would appear that Ms Enright was not of the opinion that the government was being proactive.

Deputy Healy, also on the same day, was of the opinion that the "further education sector is the largest second chance education provider in the State ... but has been abandoned by the Government"[26]. He also considered disadvantage to be "at the core of this sector"[27]. In November 2006, the Minister of State at the Department of Education and Science, Ms de Valera stated in the Seanad that she welcomed the chance to discuss the matter of "adult and further education" for which there had been "significant initiatives" in the Department in recent years[28]. Despite initiatives, there remained a reticence to employ the use of legislation to cover this area.

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[23] Dáil Debates, 1 March, 2006, Volume 615, No. 46, p21, Col. 1663
[24] Dáil Debates, 1 March, 2006, Volume 615, No. 46, p21, Col. 1667
[25] Dáil Debates, 1 March, 2006, Volume 615, No. 46, p21, Col. 1668
[26] Dáil Debates, 1 March, 2006, Volume 615, No 46, p21, Col. 1714
[27] ibid
[28] Seanad Debates, Thursday, 30 November 2006, Volume 185, No. 10, p5, Col. 868

The Irish *National Action Plan for Social Inclusion 2007-2016* (2007, p41) acknowledges that "People of working age constitute the largest of the lifecycle groups with some 2.6 million people..." and goes on to acknowledge that "Qualification levels determine to a significant degree the quality of the jobs that people of working age enter" (ibid.). This is a clear acknowledgement of the education/employability link. One of the priorities of the 2007-2016 plan is to provide opportunities for those in low skilled employment by enhancing employability through education and training. It aims to tackle inter alia, literacy, general second chance education, the back to education initiative, the post-leaving certificate sector and aid for the socio-economically disadvantaged in education. It also acknowledges that the social inclusion indicators agreed by Member States of the EU for education include early school leavers, persons with low educational attainment and low reading literacy (ibid., pp43-45 and Annex 1).

In September 2011, during the discussion on *Further Development of the Further Education Sector* by the *Joint Committee on Jobs, Social Protection and Education*, Mr Mulligan, assistant secretary general at the Department of Education and Skills, acknowledged the importance of the further education and training sector. He stated that

> *the idea is that we will put further education and training together and make it a key pillar of our education and skills sector because of the important role it has to play. It is particularly important with regard to our objectives under the national skills strategy, which concern the need to upskill people in the workforce in the period to 2020. The projections show we need to upskill approximately 500,000 people by one level on the national framework of qualifications … A large part of the challenge of meeting our objectives under the national skills strategy is at the lower levels, lower than the higher education level.*[29]

[29] Committee Debates, Joint Committee on Jobs, Social Protection and Education, 20 September, 2011, p4

This clearly acknowledges the strategic position of FE in the Irish education system and the National Skills Strategy (2007, pp92-93) sees the sector as aiding with economic growth and targeting of the low skilled and educationally disadvantaged. In June 2012 in the Dáil, Deputy Lyons asked "in view of the need to be responsive to changing skills needs, the extent to which the training and further education courses currently being considered … [would][30] be demand led as opposed to supply led"[31]. The Minister of State at the Department of Education and Skills, Deputy Cannon replied that "programmes will be … responsive to the needs of learners and the requirements of enterprise … training and further education courses will be constantly reviewed to ensure that they are fully aligned to meet the skills needs of enterprise" (ibid.). This appeared to indicate an awareness that international opinion, for example in England and in European Commission communications, was in favour of demand-led courses.

In the Seanad in June 2013[32], the Minister for Education and Skills, Deputy Quinn, drew attention to the fact that "the troubling phenomenon of youth unemployment has returned to our country", a point that is relevant throughout the EU. He also stressed that the further education and training sector "has grown in an unco-ordinated way without strategic direction over many years". Moreover, he affirmed that "the Government has decided to radically reform and restructure the further education and training system to encourage a restoration of public confidence". Moreover, it was said that

> *many people are unaware of the opportunities available in the sector. It is very difficult for an individual to find out what courses are available,*

[30] author added

[31] Dáil Debates, Wednesday, 27 June 2012, Volume 770 , No 2 , p91, Col. 481

[32] Seanad Debates, Thursday, 20 June 2013, Further Education and Training Bill 2013: Second Stage, p12

where they are on and whether a new qualification is what employers are actually looking for [33].

With the enactment of the *Qualifications and Quality Assurance (Education and Training) Act, 2012,* the *Education and Training Boards Act, 2013* and the *Further Education and Training Act, 2013,* FE is firmly established on the agenda. However, the discourse in the form of, for example, texts, reports, legislation and policy implementation and the critical analysis of such discourse, will need to continue.

9.2 DIRECTION OF POLICY

Ó Buachalla (1988, p317) refers to the distinction between lower level issues and higher level issues within the discourse of education policy. These levels capture an understanding within the education system that is worth exploring. The former refers to the aspects of the system like maintenance and financing. These are routine issues and are largely administrative in nature. These are normally dealt with by, for example, teachers, managers and the Department of Education. He suggests that the higher level issues have historically been dominated by Churches (mainly Catholic due to the dominant religion of the population) and the State, and may involve a change to the "structural status quo" (ibid.). This means major change under most circumstances. The interest group interactions become far more complicated and their participations may be unequal from a power basis. Whether this structural status quo was dependent on the Church/State relation at all levels is open to question. Nonetheless, the FE sector could have become influenced because of the close relation with second level education, an aspect still relevant today.

[33] ibid

In a useful guide to policy and change in the Irish education sector, where the dynamics of change and how they were set are described and put in context, Ó Buachalla describes and elaborates on education policies as

> *'purposeful action pursued by governments in pursuit of desired ends' [that will][34] usually include both substantive policy content and administrative procedural content* (1988, p328).

He explains, that the administrative procedural content "will lay down operational criteria and guidelines" (ibid.) for those in the position of running the scheme or whatever, that the policy entails. He further states that the substantive content "forms the heart of the matter detailing the practical measures proposed" (ibid.). Next he categorizes the substantive policy content into three areas, which are process, and its dealings with instruction and its various aspects, and then access, and its emphasis on admittance, taking part and retention, and finally structure which accounts for administration, management and funding issues (ibid., p338). He describes the reticence within the Irish education system to deal with other than process issues at primary and post-primary level and claims that discourse on access and structural issues was diminished by procrastinating governments who feared the outcomes of getting stuck into controversial issues.

This could also go some way towards explaining the lack of success historically and culturally in establishing a coherent structure for FE as mentioned above. But Ó Buachalla (1988) highlights the freedom experienced by the third level sector (ibid., p329) during restrictions on policy at compulsory schooling level, a freedom that could

[34] author added

have been experienced for the FE sector if it had more readily been separated from the second level system. It is, for example, reasonable to expect a freedom from the primary ideology of the Church when dealing with young adults from the 16-24 year old age cohort in FE. This would arise if employability is regarded as a strong feature of such education. The question also needs to be asked if the power of the Church is as dominant culturally as it has been in the past, particularly at FE level.

When it comes to socio-economic and educational disadvantage it is judicious to suggest that it is at the implementation stage that the alleviation of the so-called problem has been most prominent. Measures have been put in place but inequality of condition persists. To illustrate, the youth unemployment rate was more than twice the overall rate in the 27 states of the EU (as was) in 2012. This was echoed in Ireland with 30.4% for the under 25 year olds as against 12.9% for those 25 years old and over as reported by Eurostat[35]. Ó Buachalla states that:

> *The implementation stage as a component of the policy process cannot be assumed to follow automatically and successfully from the stages that precede it unless it is planned in detail...for successful implementation, policies need to be relatively simple, implementation-oriented in design, and involve few decision points* (ibid., p331).

This comment, where decision points are where those negotiating a consensus must reach agreement, highlights the probability of a policy, being tested severely. Those negotiating a consensus might include interest groups, learning partnerships or social movements.

[35]http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Unemployment_statistics#Youth_unemployment_trends

Breen et al (1995, p59), while investigating the use that employers make of educational credentials and educational performance, imply that the relationship between the educational system and the labour market is crucial, and this implication can exhibit different aspects within sectors of the labour market and between countries, depending on the institutional features of the educational system and the labour market involved. Iannelli and Raffe (2007, p49) refer to the transition from school to employment and in doing so mention the "vocational effect". The vocational effect is defined as "the effect on the success of an individual's education-work transitions of taking vocational programmes in upper-secondary education" (ibid., p49). They realize that academics might differ in terms of how the vocational effect versus the academic route influences the chances of the individual. Notwithstanding, most studies they observe, will give a positive advantage for the vocational effect over lower secondary education.

They also mention the concept of "transition system" which they outline as referring to "the relatively enduring features of a country's institutional and structural arrangements which shape young people's transitions" (ibid., p50). They also refer to "transition patterns" (ibid.) which may be explained in terms of the characteristics of the labour market or the education system. The former applies to aspects of the labour market like the differences "between occupational and internal labour markets", or differences "between regulated and deregulated modes of inclusion and exclusion" (ibid.). The latter applies to aspects of the education system like "linkages with the labour market", the "scale of tertiary education" or the "occupational specificity of vocational education" (ibid., p50).

In concentrating on links between education and the labour market, they further differentiate between countries with an “employment logic” and an “education logic” (ibid., pp50-51). Iannelli and Raffe (2007, p52) in mentioning systems with an employment logic and an education logic, put Ireland as an intermediate case, although also saying that it is closer to the education logic. These logics, in the ideal scenario, are based inter alia on the former being seen in a system having strong linkages between education and the labour market where they mention vocational education in particular, occupational labour markets and a smaller tertiary education sector. The latter, on the other hand, would likely have weaker linkages between education and the labour market, vocational qualifications that are regarded as lower status to academic qualifications and a perception that weaker students with less potential take vocational type courses (ibid., p51). These concepts may be particularly relevant to some of the socio-economically educationally disadvantaged in that, in the case of those with inadequate qualifications, vocational qualifications in the broad sense of helping someone on a pathway to better employment, may be the first port of call.

10 CONCLUSION

This chapter set out to be theoretical/conceptual in nature. Therefore the historical aspects, although necessary, are not given a priority placement. The chapter first set out to conceptualize an understanding of FE for use in the present work. The purpose was to allow a common understanding of FE as discussed in the jurisdictions under study. Due to the fact that the definition of FE is a contested issue, the understanding within the thesis was never meant to cover all utterances. Nonetheless, for comparative reasons, an

understanding of some equivalence became necessary. The definition of FE that was settled on for this purpose was then carried forward in the context of the overall concept of educational disadvantage where the latter was discussed with a particular focus on the concept of employability within the general discussion on educational disadvantage.

The concept of educational disadvantage when refined to consider the concept of employability was done so while considering the latter concept from the basis of a disadvantaged oriented employment preparation/opportunity engagement. This was done to allow a critical analysis of the relative paucity of availability of the eee link benefits for those regarded as educationally disadvantaged. The careerism considered in some human capital discourse is not the employability understanding that is developed throughout the thesis, although similarities are present. For the human capital discourse relevant here, the participation in FE and accountability for some benefit that is associated is discussed within the thesis from a perspective of power. The academic/vocational divide, the skills mismatch issues associated with employer practices, the economic capital superiority in the marketisation of education and the legitimacy of FE qualifications are some aspects considered in the discussion related to power. This is pertinent to the manner in which the knowledge economy throws a spotlight on differences between individual as opposed to collective benefit from human capital participation, and also raises a question as to what accountability discourse actually entails as opposed to what it is said to do.

The later sections of the chapter highlighted relevant aspects of Irish policy discourse with regard to FE and educational disadvantage, to put the search for comparative insights for Ireland from cultural and legislative practice perspectives in context. The focus on educational disadvantage was further refined so as to allow the concept of employability to be associated with FE for the disadvantaged. This is not meant to associate FE with the disadvantaged alone in a general sense. Having discussed the two central constructs of FE and educational disadvantage, the next chapter will develop the critical theory position taken in the study.

CHAPTER THREE

CRITICAL POLICY STUDIES

1 INTRODUCTION

Having already attempted to conceptualise educational disadvantage and further education (FE) in this work, aspects of critical policy analysis will now be discussed. This will include the establishing of a base for critical policy analysis and the critical policy analysis of discourse/critical discourse analysis by describing some aspects of critical theory and critical education theory to begin with. A general discussion of cultural practice perspectives will be drawn on in this chapter to aid the progress of the discussion on critical theory through to critical policy analysis.

The present research involves a comparative study of employability interventions in FE for the 16-24 year old age cohort. The empirical study in later chapters will involve three jurisdictions. These will include England, the United States and the European Union and some comparative insights for Ireland will be sought. The discussion will be set against the legislative and cultural perspectives of these jurisdictions. As a prelude to this, the functions of law will be discussed in chapter five, while culture, including educational cultures and learning cultures will be discussed in chapter four with a more specific focus on cultural practice perspectives. The chapters on each jurisdiction will involve a critical policy analysis (and the use of discourse theory) of ideological context, educational/training programmes and impact of employability initiatives. The discussion will focus on particular themes. The employability based themes analysed will include *participation*, *accountability* and *human capital* with aspects of the public/private good debate on education being considered. These themes are part of the more specific focus on cultural practice perspectives and represent the education/employability/economy link.

The themes are also important to the analysis of the power structures that are part of society. The power relations, relationships of communication and objective capacities in society as mentioned by Foucault (1982) can also be demonstrated by the themes mentioned respectively. They overlap in the critical analysis of the means by which power is exercised and in the critical inquiry as to what takes place when power is exerted over others (Foucault: 1982, p786). A genealogical approach is utilised in these chapters to investigate the power struggles that influence employability interventions. Critical policy analysis and aspects of critical discourse analysis will influence how the genealogical/historical approach is progressed. The critical theory influence expands into other chapters of the study also. The methodology of critical policy analysis with particular interest in aspects of critical discourse analysis will be discussed later in chapter six.

The exploration of the contrasting positions of working *with* as opposed to *for* the disadvantaged is a leading theme in this comparative policy analysis of key employability interventions. The power manipulations inherent in both ideological positions are different. If the policy is to work *for* the disadvantaged, the dominant ideology uses ruling class understandings in the process. This may misrepresent what is required if the dominant ideology does not contain a comprehension of the less dominant ideology. If the policy is to work *with* the disadvantaged, this in theory allows an elaboration of the collaboration needed for democratisation of, for example, education. The "power relations" mentioned by Foucault (1982, p778) become relevant in this regard. The power inequality can be exhibited in the discursive products defined by, for example, an

academic/vocational divide, the skills mismatch issues in employer practices, the superiority of economic capital or the legitimacy of the institutionalised cultural capital in FE qualifications, and these need critical analysis. These represent what Foucault (1982, p781) calls the "technique" or "form of power". The legitimation of situations of domination (Crossley, 2005) or the legitimating of the interests of the ruling class (Brookfield, 2001) need to be probed for the inequalities they manifest towards the less dominant ideology. As Foucault (1982, p788) mentioned that power "exists only when it is put into action", problematizing the manifestations within the dominant ideology allows a resistance to be initiated. This can exhibit the positive aspects within the concept of power that allow the "subjects" within society to work towards their "freedom" (Foucault, 1982). However, this positive aspect is dependent on appropriate strategies being utilised. These strategies have the potential to overcome the historical, cultural and traditional inertia that shackles each generation with the continuity of disadvantage.

The strategy employed could be, in Foucault's (1982) terms, to seek an advantage over others, or to come up with a means of obtaining victory. Yet, he also tells us, that a strategy could be a means to arrive at a certain end. The idea of a strategy to achieve "winning solutions" (ibid., p793) depends on what a win is meant to achieve. This is germane to the dilemma of working *for* or *with* the educationally disadvantaged. When the three understandings of strategy are available, the equilibrium weighting is different when working *for* and *with*. The former may aim to help but under conditions that allow advantage if not defeat of the disadvantaged to be contemplated. The blaming of the less dominant culture or ideology is often salient. The latter seeks a strategy that empowers

the disadvantaged to arrive at an end where the design of that end is negotiated. Thus, the relevance of strategies to power relations can be demonstrated. An element of participation achieved gives rise to the need for accountability so that the inherent power relations in the dialogue do not skew the consensus in favour of the more dominant.

2 CRITICAL THEORY

According to Horkheimer, cited by Brookfield (2001), critical theory differs from other theories in significant ways. One such instance when compared with positivist theory is its "primary unit of analysis" which leads on to the belief that:

> *the conflicting relationship between social classes within an economy based on the exchange of commodities – remains stable, at least until society has been radically transformed. … The commodity exchange economy comprising capitalism will inevitably generate a series of tensions created by the desire of some of the people for emancipation and the wish of others to prevent this desire being realized.*
> (Brookfield: 2001, p10)

The understanding is that critical theory will provide for the provision to people of "knowledge and understandings intended to free them from oppression" (ibid., p11). This section will provide a theoretical base which will inform the later analyses of dialogic participation of social movements, accountability of FE and employability discourse to a socially just end with equality of condition, while meeting human capital needs.

Greisman and Ritzer (1981) considered how the Frankfurt School of critical theorists were often considered as poles apart from Weberian theory. They refer to the Frankfurt School as neo-Marxists and illustrate an element of influence from Marxism. Nonetheless it is important to understand that critical theory draws from many elements in an eclectic

mix of ideas. It may amend elements of Marxism or agree with elements of Weberian theory. For example, King (1980, pp12-13) has mentioned:

> *Weber considered rationality as becoming more important in the modern world, and so regarded bureaucracy as the predominating form of authority, particularly so in education, ... Ideally the application of the bureaucratic ideal-type to schools should be concerned with the meanings of those who create the structure and of those constrained by it ... Weber viewed bureaucracies as areas of potential conflict.*

Greisman and Ritzer (1981) explain that despite Weber's use of different methods, there is a similar conclusion from his research to that of the Frankfurt School. The critical theorists of the Frankfurt School concluded that there would be an "administered world" for modern society whereas as seen from King (1980), Weber considered bureaucracy as the main form of authority in the modern world. The education system, including FE, is part of this modern society.

Agger (1991, p105) says that critical theory offers a perspective "on the shortcomings of positivism as well as new ways to theorize and study contemporary societies". He says that the central tenet of positivism is "that it is possible to reflect the world without presuppositions, without intruding philosophical and theoretical assumptions into one's work" (ibid., p106). Critical theorists do not agree. He elaborates that

> *critical theorists attempt to develop a mode of consciousness and cognition that breaks the identity of reality and rationality, viewing social facts not as inevitable constraints on human freedom but as pieces of history that can be changed.* (Agger: 1991, p109)

Critical theorists project the idea that change is possible. While it may be recognised that in a modern capitalist society there is a hierarchy to economic success, the question arises

as to why this happens. In a society where change is possible, the empowerment of those in the less powerful position can be seized or given. The latter would be surrendered by those in power, in for example, negotiated consensus.

What the concept of managerialism allows us to contemplate, is the possibility of manipulated methods whereby those in power only surrender some of the power, direct attention to other aspects or deal inadequately with pertinent issues. An example of the latter is where legislation giving prominence to aid for the disadvantaged is promulgated but does not define adequately who the disadvantaged are. Another is where demand-side aspects of employability are not considered in workfare training schemes. This is where, for example, geographical infrastructures are not sufficiently populated with appropriate jobs to accommodate those who have trained.

In considering elements of participation, Edwards (2004) considers Habermas' New Social Movement Theory and in doing so raises some aspects relevant to cultural and legislative perspectives. In explaining, she alludes to Habermas' proposal that the labour movement has been integrated into the political system by the labour parties and trade unions. The suggestion is that the latter two traditionally socialist (for the people) constructs are manipulated by saying that they are absorbed into a capitalist (for the market) construct in the form of the state system. Moreover, the supposed corollary is that the labour movement no longer has the potential to instigate radical change in the arena of labour struggles. Radical change comes from the rise of the so-called New social movements.

This idea ties in with Habermas' attempt to reconstruct a Marxist vision of historical materialism (a theory that debates the influence of the economy on general society), by emphasising the distinction between "knowledge gained from self-reflection and interaction" and "knowledge gained from causal analysis" (Agger: 1991, p110). This reconstruction was the basis of Habermas' communication theory "thus enabling workable strategies of ideology-critique, community building, and social-movement formation to be developed" (ibid.). The idea of New social movements is not tied to labour struggles but could be expanded to any facet of society, including learning partnerships for the educationally disadvantaged. Nonetheless, the class struggles or power struggles, although Foucault would recognise a possible resistance to domination (Tamboukou, 1999), cannot be dismissed on the basis of communication alone. Foucault (1982) distinguishes relationships of communication from power relations although they may overlap. The former establishes a need to question, at the very least, aspects of accountability within any type of communication agenda. An example within the European Union that will be discussed later, known as the Open Method of Coordination (OMC), may have promise in this regard due to, for example, peer review.

Edwards (2004, p115) says that Habermas' system-lifeworld distinction and his thesis of internal colonization are crucial to the understanding of his theory of the rise of the New social movements. Crossley (2005) explains the system, lifeworld and colonization as follows:

> *… the lifeworld is constituted by way of direct communicative interactions between social agents, which are oriented towards mutual understanding, whilst the system is constituted by way of more impersonal and strategic exchanges of money and power, within the context of the*

> *economy and the modern administrative state and judiciary … The colonization of the lifeworld refers to the imbalance between these two elements in which the system is increasingly impinging upon ('colonizing') and thereby eroding the lifeworld.* (Crossley: 2005, pp37-38)

The implication is that the infiltration of the state mechanism is diminishing the aspects of culture that some people want to hold onto. One way that the state influences society and culture is by the use of legislation. Habermas refers to the juridification (Crossley, 2005) of conflicts around capital and labour by the use of legal channels implying that the conflicts are accordingly subsumed into the system which leads to containment by those in power. For any legislative attempts to deal with disadvantage in the education arena, Marxism paints a bleak picture:

> *According to Marx and Engels, it is a fallacy to suppose that the content of law depends on 'will', on the arbitrary choice of a legislature. The relations of production control what the legislature can and does lay down ... The law, like other instrumentalities of the state, does express the will of the ruling class at different historical epochs; but what they will is ultimately dependent on their class interests,...* (Harris: 1997, p269)

There are two points worth noting here. Firstly, the use of law to aid in, for example, combating disadvantage is given a dubious stance as the process of juridification has pejorative undertones. Secondly, as a corollary, as there is a sense in the New social movements that there is a desire to restore what is being eroded, any use of legislation as an aid to combating disadvantage would need collaboration.

Habermas' use of the term commodification, which Crossley (2005, p38) describes as where "ever more areas of life are now produced, packaged and sold to individuals as commodities", is also mentioned in such a way as to imply that the economy is

continuously becoming more intrusive. But the fact that the disadvantaged are often so because of the failure of the economy to be a proper part of their lives, implies that the economy may not necessarily be intrusive as seen from that perspective. However, in terms of marketisation of education in, for example the FE sector, this brings an element of the economy which is already unfair from a monetary aspect for the disadvantaged, into an education sector in which they are already unfairly positioned.

In the sense that the New Social Movement Theory implies that there is something *new,* Edwards (2004) disagrees that the integration of the labour movement into the state system has taken place to the extent considered by Habermas which in turn questions his version of a *new* manner of raising issues in the public sphere. Edwards (2004, p123) is of the opinion that what is considered *old* by Habermas because of the labour movement's integration into the state system, is really just as relevant as ever for raising issues in the aforementioned public sphere. What has changed is the arena in which the conflict arises. This is the change to the community based campaign from the workplace based versions (ibid.). This is similar to the availability of community education programmes.

The power relations mentioned by Foucault (1982) can be activated by a relationship of communication (ibid.) whereby the disadvantaged are made aware of the strategies that are utilised by the dominant ideology in the struggle that "ties the individual to himself and submits him to others" (ibid., p781). If a society is regarded as unequal, Brookfield's concern in this regard would be how adult learners manage to recognise any ideology

based manipulations, by those in power, over them and how the resultant disadvantaged can challenge the unequal society that arises as a corollary to these manipulations. Critical theory forges a relationship of communication that is not representing the dominant ideology but problematizing it.

The concept of ideology is said by Crossley (2005) to have a distinctive understanding in critical theory. This amounts to

> *the less explicit beliefs, assumptions and taken-for-granted conceptions which legitimate … situations of domination which are deemed by the theorist of ideology to be neither natural nor inevitable.*
> (Crossley: 2005, p148)

Brookfield agrees with the fact that in critical theory discussions, a specific understanding of the concept of ideology has predominated. He claims that it

> *signifies ideas and beliefs which help to legitimate the interests of a ruling group or class specifically by distortion and dissimulation. Critical theory sees ideology as inherently duplicitous, as a system of false beliefs that justify practices and structures that keep people unknowingly in servitude.*
> (Brookfield: 2001, p13)

His concern with learning to recognise the ideology based manipulations can be related to Foucault's connection of power and knowledge and how, as Crossley (2005, p222) describes, they can interact in a "mutually reinforcing manner". Knowledge in this sense need not be separated from FE learning or employability.

In a post-Fordist knowledge economy, manipulations may be active in forms of capital (Bourdieu, 1997) or marketisation. A false consciousness may be directly related in this sense to participation where the educational culture (Biesta, 2011) of those not participating at all or not participating as beneficially is overtly aided by government

policy but is covertly hindered. This hindrance may come in the form of embodied capital where knowledge more applicable to another culture dictates the education/learning pathway or it may be associated with the more powerful economic capital of the dominant ideology. The inference in this is as Marcuse claimed, that there is an ideological, social, political and historical nature to any policy (cited by Stevens, 2003). These facets of critical education theory will now be explored further.

3 CRITICAL EDUCATION THEORY

Although the present author's position will be discussed in more detail in chapter six on methodology, a brief reference to some aspects is relevant here. The increase of participation in a just society as opposed to the necessary erasure of social class structures is a platform for critical analysis. The purpose of the critical standpoint taken in the thesis is meant, inter alia, to bring attention to what the author considers as the position of the educationally disadvantaged with regard to power inequality in society. This is considered to be reflected as a transgression of the effects of the aforementioned power inequality into the education system and the consequential aid to the resilience in society of that power inequality and the various manifestations therefrom.

Giroux (1980) writes of a necessary change in rationality to empower the concept of citizenship education. By rationality he means "a specific set of assumptions and social practices that mediate how an individual or group relates to the wider society" (p.331). The proper purpose of citizenship education is meant to enable "intelligent and active participation in the civic community" and "to cultivate the formation of virtuous

character in the ongoing quest for freedom" to enable the achievement of a "just and decent political community". It could be argued, that in the quest for employability for the educationally disadvantaged, there is a necessary corollary that education for this employability should be a salient feature of the education system. This arises because of the ability afforded by said employability to give those who could be socially and economically disadvantaged a chance to participate in society in an inclusive manner.

This discussion can easily accommodate the equality of condition debate in education (Lynch and Baker, 2005) and the product model versus process model with regard to education accountability is similarly integrated (Gleeson, 2011). Both of these are discussed again in chapter four. Briefly, these debates deal with, inter alia, the presentation and discussion of collective/system (product) and individual (process) objectives within society and more particularly of interest here, in education. This is then accommodated within the neoliberal agenda discourse where individual responsibility is lauded while pushing a market economy and global competitiveness. Education accountability should be considered as more than just the notion of performance. There should be an allowance for the explanation of the power inequality that disrupts the possibility of an inclusive society. By explaining, the possibility of alleviation of disadvantage becomes more attainable in theory. The translation of theory into practice is the challenge. Under the ethos of managerialism, accountability and the notions of the audit society within an organization for "all of its activities" (Biesta: 2004, p235) may serve as a hindrance to the democratization of education (ibid.).

Sugrue's (2009) attestation to the difference between a knowledge economy (individual) and a knowledge society (collective) must be considered. For Giroux's (1980) 'new' "emancipatory rationality" he sees it necessary to engage with concepts like "knowledge, power, ideology, class, and economics" (p331) with a view towards the critique of society and follow on action to improve it (p346). This could arise, it is argued, by combining elements of the political economy position which sees society and its individuals influenced by structural aspects within said society, and the culturalist position which sees society and its individuals capable of being conscious of their surroundings to such an extent as to allow them to change things for the better.

This connection of the political economy and the culturalist position has similarities to Masschelein's (2004) discussion on postmodernism and modernism. This discussion helps to develop Masschelein's description of Lyotard's ideas and his subsequent discussion of some of Foucault's perceptions of power, which are followed in a manner that allows an analysis of the possibility of achieving a position as set out by Giroux above. Lyotard (1993 and 1999) is cited by Masschelein as alluding to the fact that critique may be developed as a part of the system itself as opposed to being initiated from some outside space like Habermas' lifeworld. This former position questions the availability of resistance to the dominant ideology and if taken to the most negative conclusion would not enable any real resistance but would establish a predicament with a similar undertone to the concept of false consciousness. However, Masschelein goes on to reference Foucault's discussion on power to enable what he considers a mitigation of

this position to some extent. In this view, power is not a control over someone else as such but a relation between individuals. Power:

> *is not about direct action on others, but about actions upon their actions, upon the possibilities of their actions, both existing or to come. This implies that others are recognised as individuals who themselves act 'freely', it implies free subjects for whom there opens up a field of possibilities of responses and ways of behaving.* (Masschelein: 2004, p 358)

From an education perspective, this would point to the possibility that individuals could form a relation with others, in terms of the responses they make, based on forms of social capital in the form of, for example, networks and interest groups or learning partnerships. This response need not necessarily be based on the dominant ideology if the response is controlled by outside influences such as the European Union (EU), or by negotiated consensus as could be the case if social movements as described by Habermas were to have some influence on the democratization of learning processes.

When mentioning the EU as a positive influence on for example, educational participation or accountability, Dale's (1999, p4) mention of the "national societal and cultural effects" working as a filter for outside influences needs to be remembered. If the state filters positive engagement in aspects of inclusion, Foucault's positive take on power relations when aided by appropriate strategies may be diminished in favour of the dominant ideology.

In contrast to Habermas' opinions on legislative interventions, juridification need not only represent the system in the form of a restriction. The defining function (setting the parameters of engagement and pinpointing who or what is affected) of legislation could

be used to delineate the relation between individuals as described by Foucault. In contrast, Masschelein (2004) alludes to the fact that a restriction or "government of individualisation"[36] comes from a "historical practice of freedom"[37] which developed along with the concept of the modern state. Crossley describes this well when he writes:

> *Modern western societies can afford to give their citizens freedom of speech and rights of assembly and suffrage, … because the basic preconditions of order are secured at a grassroots level by a network of practices … which mould individuals as efficient and effective citizens, workers, parents, children, and so on.* (Crossley: 2005, p 219)

This alludes to the general perception of the dominant ideology as a doxa or "that which is beyond question" (Bourdieu: 1977, p169). Moreover, Lukes cited by Crossley (2005, p218), maintains in his three-dimensional approach to power that along with decisions that are made, and those that are suppressed visibly from the agenda, there are those that although apparently unsuppressed, have invisible restraints at work on them. This raises the question of whether Foucault's mention of the "government of individualization"[38] is more akin to Lukes' invisible restraint or Masschelein's field of possibilities.

Kellner (2003) expresses an opinion that:

> *… a critical theory of education must be rooted in a critical theory of society that conceptualizes the specific features of currently existing capitalist societies and their relations of domination and subordination, contradictions and openings for progressive social change, and transformative practices that will create what the theory projects as a better life and society.* (Kellner: 2003, p57)

[36] Foucault's term

[37] Jan Masschelein op. cit. p. 361

[38] Jan Masschelein op. cit. p. 359

In suggesting a critical theory framework for youth in the new global society Kellner (2003, pp57-58) alludes to the need for "radical transformations of education" that are appropriate for inter alia "social movements and struggles". He mentions that Freire's Pedagogy of the Oppressed sought a sort of "decolonization" where there was a raising of the consciousness for a proper participation in the education process among the aforementioned oppressed (ibid., p55).

Gleeson and Ó Donnabháin (2009, p27) mention a similar sentiment in their description of contractual and responsive models of accountability. Whereas the former is measurement-driven, the latter is "more concerned with … securing involvement and interaction to obtain decisions that meet a range of needs and preferences". If we consider Habermas' claim that there is an internal colonization caused by the system eroding the lifeworld due to the domination of aspects of money and power, it does not take much to envisage *colonization* as a pejorative term in this instance. In agreeing with Freire's philosophy, and claiming a need for *radical transformations of education* which could accommodate *social movements and struggles*, Kellner alludes to a use of social movements in the pursuit of decolonization in his proposals for the democratization of the education process in defiance of attempts at a neo-liberal onslaught on the education system by, for example, the use of marketisation. This needs to consider the formation of policy goals and processes and the critique of such is considered next.

Troyna (1994) lauds an eclectic approach while considering the advantages of critical social research over education policy sociology where the latter is “rooted in the social science tradition, historically informed and drawing on qualitative and illuminative techniques” (ibid., p71). He claims that a discerning aspect of critical social research, while studying policy, also searches for potential change pathways. Ball and Shilling (1994) refer to “the value and potential dangers of eclecticism” in policy analysis. They also refer to the importance of “not divorcing changes in education from more general ideological and economic shifts in global society” (ibid., p4). While the latter statement resonates with the ideas being analysed in this present work and calls for a movement beyond general descriptive studies, which in the present study is aided by a genealogical approach (Foucault, 1984), the former statement on eclecticism’s dangers throws some emphasis on the possible need for clarity of theoretical direction in critical policy analysis.

Even with a definitive theoretical direction, postmodern policy analysis warns of the possible perpetuation of problems within society by the failure to acknowledge that public policy discourse can construct and maintain the very problems that are deemed to be in need of resolution (Schram, 1993). Schram claims that a:

> *postmodern policy analysis holds out the potential of inverting the dominant policy paradigm that assumes public problems are part of pre-given reality to which public policy simply responds.* (ibid., p252)

This suggests how public policy discourse by those in power is influenced by positivistic ideological leanings at a given time, showing some support for the relevance of

Habermas' attempt at reconstructing Marxist historical materialism in his communication theory to engage with change instead of a predetermined reality.

4.1 CRITICAL POLICY ANALYSIS AND DISCOURSE

Taylor (1997, p28) mentions how "discourse theory can be used to explore particular policies in their historical context". Taylor goes on to state how "policy texts need to be analysed within their context and also in relation to their impact on policy arenas in the broadest sense" (ibid., p33). Thus, Taylor implicitly draws attention to the warnings of perpetuation as outlined by postmodern analysis, and implies a need to conceptually and practically take account of the power struggles suggested by postmodernism, as part of any critique. Raab (1994, p13) suggests that this broad context can include interest groups in a "policy network approach" and central to this is a "simple consideration that 'network' is a generic label for different types of relationship between the state and interest groups in the policy process". Notably within this idea, the suggestion is that the state retains an important position although this may include a combination of network, hierarchical and market principles as "modes of social co-ordination" (ibid., p15).

Ball (1997, p226) suggests a "policy trajectory" analysis, in so far as it concerns an "attempt to capture the dynamics of policy across and between levels". Ball continues that this can involve the process of tracing through " … the development, formation and realisation of … policies from the context of influence, through policy text production, to practices and outcomes" (ibid., p266). This approach is similar to that taken in the

formation of research aims and questions in the jurisdictional section (England, EU and US) of the present study, as will be seen in the methodology outlined in chapter six.

Power et al (2004, p458) questioned a policy trajectory analysis, at least in their study of education action zones (EAZs), because of the shifting, at key moments, of the "relative prominence and influence" of individual discourses that influenced the EAZ policy and in agreement on definition of EAZ policy. This is despite Ball claiming that the trajectory approach is meant to attend to the "ways in which policies evolve, change and decay through time and space and their incoherence" (Ball: 1997, p266). The conclusion could be drawn that the incoherence attested to by Power et al was too concentrated over a shorter period than Ball envisaged for the approach to be satisfactory.

4.2 DISCOURSE, IDEOLOGICAL CONTEXT, STRATEGIES AND HEGEMONY

Van Dijk (2006, p115) highlights the potential of discourse in the perpetuation of ideology. Critical discourse analysis is germane in the present work since ideology contributes such an important strategic position in the understanding of the jurisdictions under study. While describing ideologies as "foundational beliefs that underlie the shared social representations of specific kinds of social groups" (ibid., p120), he continues that these are interpreted by those analysing from the relevant context and event models. The former might indicate such as a neo-liberal, communitarian or socialist outlook in a given context for example, whereas the latter might demonstrate how these ideologies are utilised to reflect specific actions in, for example, the setting of policies for education. This is particularly relevant to this thesis, when the communicator is influenced by

"group beliefs", such as when a member of a political party in government. However, he does warn about the idea of "intentionality" and the dangers of making assumptions from comments taken out of context.

Fairclough (2005) claims that although "ideology critique" is the predominant version of critique identified in critical discourse analysis, what he calls "strategic critique" and the investigation of the emergence of hegemonic status of "nodal discourses" is important during times of major social change. The strategic critique is relevant for this thesis to the discussion of an antagonism of strategies (Foucault, 1982) when cognizant of the resistance provided by less dominant groups against the powers in society and critically analysing aspects of such. The strategic critique focuses on the "strategies pursued by groups of social agents to change societies in particular directions" (Fairclough: 2005, p12) The nodal discourses are discourses that "subsume and articulate in a particular way a great many other discourses" (ibid., p10) and the knowledge-based economy is one such nodal discourse that subsumes aspects of government, social exclusion/inclusion and FE education. In citing Jessop, Fairclough (ibid., p9) elaborates that the "knowledge-based economy" represents a strategy to achieve a "cultural political economy" in a post-Fordist era, implying a link between educational cultures and the economy. These nodal discourses are similar to Foucault's view of power "as a network of many unequal points or nodes" (Ninnes and Burnett: 2003, p281). While the power may not be equal, a positive aspect is that a network is established. The nodal discourses may achieve the hegemonic status described by Fairclough, according to the power they represent and their potential to aid the realization of a new regime. The new regime is malleable in its

formation which is where Foucault's positive take on power relations when aided by appropriate strategies can be realised in a democratisation of any educational agenda amidst the network of power nodes.

In any event, the importance of hegemony is disputed by Beasley-Murray (2003). He argues that we are in an era of posthegemony. He further ties this position to the decline of the importance of ideology. He states that as:

> … *hegemony theory is, in essence, a theory about the social efficacy of ideology, it is clear that when the power or even the very existence of ideology is seen to wane, hegemony theory automatically loses its power to convince us that hegemony is the sine qua non of social organisation.* (ibid., p118)

Yet, he implicitly acknowledges an anxiety that accompanies this alleged abatement of ideology and hegemony in the perceived erosion between the "political and the social" and the movement from a "sense of responsibility" (ibid., p119). Johnson (2007), although admitting to differing interpretations of hegemony, submits that the changing aspects of society do not necessarily constitute posthegemony. He argues that the changes could just as easily be described as pre-hegemonic. The implicit argument is that the movement from, for example, Fordism to post-Fordism, is not so much a meltdown as a "recomposition" (ibid., p107) of hegemony. The future to which genealogical research aspires (Tamboukou, 1999) could be enabled more easily by a recomposition.

4.3 CRITICAL DISCOURSE ANALYSIS

The following will outline the direction to be taken and the aspects of critical discourse analysis that will be utilised. Critical discourse analysis has been described by Patel

Stevens (2004, p207) as a “theory and method that draws on the dialogic relationship between texts and social practices”. The methodological aspects will be discussed in chapter six. While considering the socio-economically disadvantaged from an employability perspective, there is a deliberate effort to consider the position of the FE sector. This is further condensed to the 16-24 year old age cohort. The nodal discourse that is represented by the knowledge-based economy and the extent to which it has embraced such ideological positions as the post-welfarist agenda, post-Fordism, globalisation and the cultural political economy will be investigated for comparative insights.

The critical discourse analysis proposed will engage with the educationally relevant legislative measures undertaken and the cultural practices that are educationally relevant in the jurisdictions that are mentioned previously. The mention of ideology and hegemony and some relevant discussions have been outlined above. It is because of the salient position given to the concept of ideology that the discourse to be analysed in this work is probably best described as political discourse. The word discourse itself needs to be related to the concepts of power, knowledge and change. This highlights an ontological as well as an epistemological viewpoint for the discourse involved. Crossley (2005, p62) highlights the fact that *discourse* can be used as a noun, as used by Foucault, or a verb, as used by Habermas. He continues that Habermas uses discourse to “denote communicative activities which call norms and assumptions into question” (ibid., p62). This elevates discourse to a powerful position where it serves as a conduit for change.

Crossley also claims that Fairclough's version of critical discourse analysis, while it could be said to be used to extend the potential of discourse as outlined by Habermas, uses discourse as both a verb and a noun and covers specific communicative exchanges through to the broader historical aspects, a useful facet in a genealogical study like this one. Fairclough (2005, p2), although acknowledging "various ways" of using the term discourse has claimed, in an article on the knowledge-based economy, that he prefers the terms semiosis and count noun to describe his use of the word discourse in that context. Semiosis in this sense is a form of activity. In that the discourse attempts to influence the norms and assumptions as outlined by Habermas, this may be evidence of a link worth exploring between what culture does and what legislation tries to do. A hegemonic status may be achieved if the ideology based "imaginaries" (Fairclough: 2005, p11) or unrealised discourse objectives, become "inculcated". Before these ideologies are seeded by nodal discourse like the knowledge-based economy, the "meaningful problems, solutions, methods and data" (O'Sullivan: 1989, p227) identified as paradigms, in this case for education, need to be identified. The instances represented by the term paradigm must also overcome any inertia that is encountered.

4.4 CONCEPTS AND PARADGIMATIC DISCOURSES: CHANGE DYNAMICS

The aspects of interest in the education sector that have been outlined thus far include employability in the FE sector for the socio-economic disadvantaged in the 16-24 year old age cohort. The areas that will be looked at in the jurisdictions in chapters seven to nine will include concepts and paradigmatic discourses that shape the specific political discourses that are used as *strategies*, in the sense used by Jessop. These concepts and

paradigmatic discourses should in theory feed into rather than being obviously influenced by the dominant ideology at any given time. The concepts and paradigmatic discourses may in fact serve to enlighten debate in different ideological discourses. These mentioned concepts and paradigmatic discourses include participation, accountability and the public/private good debate on human capital. These will serve a purpose of directing the more specific headings in the jurisdictional research in the form of the genealogical treatise of the ideological contexts, education/training programmes and impact. In doing this, the cultural identity of the society under investigation and the state's legislative interventions, the latter for example in the FE sector, will be analysed in terms of their use in the search for a "strategy" or "nodal discourse" in the realm of change in the employability agenda, whether regarded as transition or transformation, for comparative insights for Ireland.

This latter distinction, though the terms are seemingly similar, may ultimately depend on from where the change comes. Power et al (2004, p459), Fairclough (2005, p9), Ball (1997, p258) and, Johnson (2007, p97) when writing of Gramsci's search for a "route to social transformation", all use the term *transformation* with an implied or directly stated meaning. The term transition may or may not be seen as suitable for the change analysed or change sought. The mooted change towards a post-welfare state, a post-Fordist agenda and a globalised economy may be more gradual than the word *transition* can encapsulate, at least from Fairclough's representation of transition (2005, p9) as from one "well-defined point of departure" to an equally well defined "destination".

Ball (1997, p263) sees *transformation* as more appropriate to the changes he describes as "a move from one state of affairs with a set of dominant characteristics, to a new state of affairs with a different, mutually exclusive set of dominant characteristics". This is in terms that look very similar to what Fairclough rejects as transformation and calls transition. Power et al (2004, p459) explain how "transformation" was used as a euphemism or ideological ploy by those in power to defend against claimed failures in Education Action Zones in England when efforts might have been more appropriately referred to as rectifications or improvements. What is important however is that change is described and analysed and that how it is perceived to influence the employability agenda in FE is characterised for changes that may be seen as necessary in the search for solutions to a meaningful problem in question. Moreover, appropriate adaptations need to be efficient whether they are labelled as transitions or transformations.

5 CONCLUSION

This chapter has discussed theoretical elements of the appropriate research paradigm in the present work. The methodology will be discussed in chapter six. The base of critical policy analysis is described from critical theory. It is clear that an eclectic format is common in this research approach and that as a paradigm, critical theory is influenced by other sociological positions such as Marxism and Weberian theory. The use of the term critical discourse analysis, as a subset of critical policy analysis, was highlighted. The critical discourse analysis takes a form that is a critical policy analysis of the various discourse elements in each jurisdiction. Such discourse is represented in texts. These texts could include, for example, reports, green papers, white papers, websites, and statutes.

Although this chapter inevitably discusses aspects of culture to inform the reader about the position taken on critical policy analysis, the next chapter elaborates on the cultural themes relevant to the thesis by framing the enactment of theoretical ideas discussed in the present chapter. This is done with regard to the three themes of participation, accountability and human capital in the public/private good debate. These themes, while derived from the education/employability/economy link, also demonstrate aspects of the power relations, relationships of communication and objective capacities in society, as mentioned by Foucault (1982), respectively. These latter three engage with the analysis of power in the sense of "by what means is it exercised?" (ibid., p786) and questions or critically assesses what happens when power is exerted over others (ibid.).

In the search for some comparative insights for Ireland, the three themes of participation, accountability and human capital, which are part of the concepts and paradigmatic discourses within the ideological critique of the thesis also form part of the "strategic critique" (Fairclough, 2005). The strategic critique allows an assessment of what Foucault (1982) calls the "antagonism of strategies". These strategies include the likes of nodal discourses, for example, the knowledge economy and the eee link. The analysis of the strategies brings a spotlight on the different positions represented by the educationally disadvantaged and educationally advantaged.

CHAPTER FOUR

POWER RELATIONS: A THEMATIC FOCUS

1 INTRODUCTION

This study is about the comparative insights for Ireland that can be ascertained form a study of three jurisdictions, namely England, the US and the EU. The search for these comparative insights will involve the processes of comparing and contrasting Ireland's position with these jurisdictions while being conscious of cultural differences. This study is a critique of employment focused inclusion for the 16-24 year old age cohort in the FE sector. Some key legislative perspectives will be considered in chapter five and this chapter will look at some key cultural practice perspectives using a thematic focus on the contextually dynamic issues of participation, accountability and human capital. The critical policy analysis within the chapter will take the following format.

To begin with, the concept of culture will be discussed with a focus on learning. This will be followed by a section on participation to include some engagement with equality discourse. The understanding of participation is extended beyond that of student activity and is positioned as part of social relations generally. There is then a section on accountability with an appraisal of the influence of globalisation on the state of the nation. The idea of accountability is extended beyond the notion of performance alone and is related to the status of the institutional structure of society in, for example, aspects of equality of condition. The last substantive section will discuss aspects of human capital and the perception of such as a public or private good, before concluding. In the description that follows, there is an emphasis on the perception that power struggles within society are the root cause of educational disadvantage. This is the basis of the

critical policy analysis within the thesis. Bourdieu's (1997) understanding that the manifestation of power can be exemplified within forms of capital is explored.

2 LEARNING CULTURES AND COMPETING IDEOLOGIES

Biesta (2011) mentions educational improvement in terms of educational cultures and learning cultures. This is done while considering a cultural approach as developed in a research project on FE in Britain. He defines an educational culture as a "learning culture that is framed by particular purposes" (Biesta: 2011, p199). Moreover, Biesta mentions that "learning cultures are the social practices through which people learn" (ibid., p202) and learning itself is understood as a cultural practice. In describing the culture part of learning culture or educational culture as an anthropological term and saying that "culture is seen as a way of acting and being and, more generally, as a way of life" (ibid., p202), there is a suggested link with the term ideology. In discussing the themes of participation, accountability and human capital in this thesis, where the latter extends to both collective and individual aspects within an educational culture, it is useful to focus on aims or purposes within the learning culture as discursive strategies. In chapter two the discourse set out to establish an 'ideal type' understanding of the learning culture within an FE setting for the disadvantaged in terms of some social practices. Furthermore, chapter three put forward some criteria for an ideological and strategic critique.

Biesta also relates learning culture to the concepts of habitus and field as outlined in Bourdieuian theory. In a comparable understanding of culture to Bourdieu's concept of

habitus ("systems of durable, transposable dispositions, structured structures predisposed to function as structuring structures" (1977, pp72-73)), Biesta states that

> *Cultures are … both structured and structuring, … individuals are neither totally determined by particular cultures, nor are they totally free. Individuals are, however, differently positioned with regard to the shaping and changing of a culture, which means that we cannot assume that everyone has the same power to shape and structure a particular culture.* (Biesta: 2011, p202)

O'Brien and Ó Fathaigh (2005, p68) describe habitus by claiming that "it is not a static concept since it allows for individuals to mediate … messages, even to the point of resisting embodied beliefs". Although allowing for the fact that the concept of habitus and particularly class habitus may be influenced by "historical, social and cultural contexts" (ibid.) it clearly signals a possibility of change. This may be accomplished by shaping the values of a given cohort "by a general set of outlooks in their immediate environment … that afford them some advantage in utilizing the formal education system" (ibid). While O'Brien and Ó Fathaigh see these values being shaped by parents or peers or social position, it is arguable that by providing a goal or purpose in terms of employability, the value shaping may be likewise attainable.

O'Brien and Ó Fathaigh (2005, pp 69-70) say that the concept of field "relates to a structured space of forces and struggles, consisting of an ordered system and an identifiable network of relationships that impact upon the habitus of individuals". This echoes Masschelein's (2004) description of Foucault's view of power as a relation between individuals that enables change, which can be further added to by Biesta's claim that learning cultures as well as a cultural theory of learning, involve social interaction.

What rises to prominence in the similarities outlined between culture, habitus and ideology is an argument for ideology being considered within the context of a dominant culture or dominant habitus. Just as ideologies have been described in chapter three as changeable, it has been outlined here how cultures and habitus need not lead to inevitable conclusions. The culture change being investigated here is the possible employability improvement caused by an increase in educational qualifications. This does not advocate a change of culture to the beliefs of the dominant culture but seeks to critically assess the issue of how the educationally disadvantaged can improve their position with regard to the relative success enjoyed by the dominant culture in the economy, as opposed to being assimilated by that dominant culture. There is a critical investigation into the understanding of the concept of capitals and how the strength of any given capital, like symbolic, cultural or social, assigned to a given aspect in the institutional structure of society might be open to change by a democratization of education. It does not seek to deny other facets of what education has as its purposes, for example, recreational pursuits.

2.1 PARTICIPATION, ACCOUNTABILITY AND LEARNING CULTURES

Hodkinson et al (2004, p9) cite Lave and Wenger (1991) in stating that:

> *participation in the cultural practice in which any knowledge exists is an epistemological principle of learning. The social structure of this practice, its power relations, and its conditions for legitimacy define possibilities for learning.*

Hodkinson et al go on to further relate culture and participation and say that the latter is not simply a metaphor for student activity but should be recognized "as an instance of

enactment and reproduction of social relations" (ibid., p10). They further relate these aspects to the Bourdieuian concept of field. What then emerges if field is related back to participation is the dilemma that arises when habitus is brought into the discourse. Whether participation is taken to mean individual student activity or an enactment and reproduction of social relations, there is a distinct possibility that the educationally disadvantaged may reproduce their disadvantaged status. The learning culture as a cultural practice may only serve to reproduce the underprivileged position. However, Biesta's (2011) mention of educational cultures and the search for the purposes of desirable educational outcomes, even though it raises the aspect of *who decides*, does point to aspects of accountability.

Hodkinson et al (2004, p11), while describing how Bourdieu describes the concept of field as similar to a game with its rules and regulations, some of which will be there for accountability, explain that there is also the ability of participants, at least partly, to "construct the processes and procedures of the field through their participation in it". The construction of the field may differ according to the "purchasing power" (Hodkinson et al: 2004, p11) available to individuals. This is one instance where key legislative practices can serve to channel elements of power in suitable directions to aid the educationally disadvantaged. This then draws attention to participation by partnership (See O'Brien and Ó Fathaigh: 2007) which can be related to the concept of social movements as described by Habermas (1996) and the idea of interest groups. Whereby the latter two may be associated with conflict between minority groups and government, and a desire to reach a stage of partnership, according to O'Brien and Ó Fathaigh (2007,

p11) the term partnership tends to be couched in positive terms. However, although couched in positive terms, this belies the power struggles that still pertain, which means that as a concept, partnership may be no more positive than social movements or interest groups in achieving desired outcomes.

In describing learning partnerships (LPs) as "a policy instrument in tackling social exclusion" (p 55) and the possibilities within for the educationally disadvantaged, for example in the case of legislative interventions, O'Brien and Ó Fathaigh (2007, p23) mention that these types of partnership have a "specific educational character" which is defined as the substance of the LP's "learning goals, processes and outcomes". This resonates with Biesta's educational cultures. There is an implication within the statement of LPs being used to tackle social inclusion that the correct mix of power levels needs to be achieved. Freire (1972, p98) draws attention to the pursuit of this in the form of "dialogue". This is in contrast to "antidialogical action" (ibid., p108), the first characteristic of which is "necessity for conquest" (ibid). Another fundamental characteristic is

> *cultural invasion, which like divisive tactics and manipulation also serves the ends of conquest … the invaders penetrate the cultural context of another group, and ignoring the potential of the latter, they impose their own view of the world upon those they invade and inhibit the creativity of the invaded by curbing their expression.*
> (Freire: 1972, p121)

Hence in antidialogical action, Freire highlights many of the deficit approach measures of disadvantage interventions discussed in chapter two. Moreover, Bourdieu's concept of habitus and the portrayal within of an individual's ability to mediate various actions

based on any strategy being "one strategy among other possible strategies" (Bourdieu: 1977, p73), draws attention to the necessity to allow those most affected by disadvantage to participate effectively in the LPs. There is an illustration within *effective participation,* if achieved, of ideologies being respected in a manner that allows all groups to exist, while not causing any other to be disadvantaged. What follows next is a more in depth look at aspects of participation, accountability and human capital.

3 PARTICIPATION: IDEOLOGIES AND RELATED ISSUES

O'Sullivan (1989) has pointed to the various meanings associated with the phrase ideology. One is listed as:

> *A stated set of ideas pertaining to political options relating to systems of government, or to major societal institutions such as the economy, the church, education or the family.* (O' Sullivan: 1989, p223)

It is hard to avoid the fact that equality in its various manifestations has long influenced the education sector as a political ideology relevant to disadvantage. In one of its original popular understandings, equality surfaced as equality of educational opportunity. The idea of meritocracy was pertinent to its discussion. The ideas of meritocracy and equality of opportunity as attempts to tackle disadvantage, have courted controversy. The exact meanings and theoretical understandings have been debated and in related discourse, the ideas of access, participation and benefit have, among others, had time in the limelight. Access, participation and benefit/outcomes have also been mentioned in terms of "educational inclusion" (Educational Disadvantage Committee (EDC): 2003, pv). The focus shifted to benefit/outcomes as the recommendation for setting targets for the

"educational system as a whole" (ibid) in the report of the Educational Disadvantage Forum's (EDF) inaugural meeting:

> *In setting targets for the educational system as a whole, the emphasis should shift from the concept of participation (e.g. prevention of early leaving from school programmes leading to the leaving certificate) to benefit (outcomes for the individual, irrespective of where the learning has taken place). The statement of specific objectives for education can then be made in positive terms, setting targets for the achievement of certain levels of attainment (or of national qualifications) by specified proportions of the age cohort or the total population within the given time frame.*
> (EDC: 2003, pv)

Due to the emphasis in this thesis on the 16-24 year old age cohort in FE, the prominence of the focus on benefit/outcomes instead of participation is questionable. This arises partly because of the *Education (Welfare) Act, 2000* which sets 16 years of age as the minimum leaving age. Hence, in theory at least with three years of post-primary education, a student could leave the education system at 16 years of age. Whereas there is a statutory support for educational participation up to 16 years of age, there is no such support after that age. This means that the issue of participation (and indeed access) is just as important as benefit/outcomes in the case of the older age cohort.

O'Brien and Ó Fathaigh (2007) draw attention to other aspects of the access and participation discourse relevant to FE learning. These include remuneration prospects for participants who returned from unemployment to education, competition for places, perceived ability to cope with courses based on previous educational qualifications, which could include an element of recognition of prior learning, and differentiation of adult learner needs. Moreover, O'Brien and Ó Fathaigh differentiate between the outlook of community education (CE) providers as distinguished from the more formal type of

FE programme provider. This highlights the close connection of the "social activist" with community education courses (ibid., p172).

3.1 WHAT EGALITARIAN AGENDA?

There is some uncertainty about the logic of the so-called "axiomatic" (self-evident) case for equality in education (Entwistle: 1978, p1). When Entwistle argued that there was rarely any debate about the necessity for equality in education in itself, he remarked that debates were normally more about how to attain it, or what it actually meant when applied to education. There is some level of consistency though in the lacuna claimed by Entwistle and the public/private good debate. Labaree (1997) mentions three goals of education that can be used to engage with equality discourse and that are also relevant to the public/private good debate. These are democratic equality, social efficiency and social mobility.

Although writing about the American educational system and mentioning a mixture of these goals as an objective, he points to facets just as relevant in other jurisdictions of interest here. The following is particularly worth noting:

> *From the perspective of democratic equality, schools should make republicans; from the perspective of social efficiency, they should make workers; but from the perspective of social mobility, they should make winners. In the latter view, the individual sees schools as a mechanism for producing neither a democratic society nor a productive economy but a good job.* (Labaree: 1997, p66)

There are contradictions within these claimed goals. There is a conflict between the collective and the individual benefits. The term equality does not seem compatible with the term winners. Labaree points to the recent dominance of social mobility and the

connection with credential inflation (See Coffield, 1999). This is described by Labaree (1997, p55) as the "rising level of educational attainment required for jobs where skill requirements are largely unchanged".

The mention of investment in educational credentials in a market economy with varying levels of capital cannot ignore the power distribution among different sections of society. If meritocracy is taken as the combination of ability and effort, Labaree (1997, p57) asserts that:

> *… meritocracy is much more visible in the upper levels of the stratified structure of schooling than in the lower levels … Students from the lower and working classes see the possibility of social mobility through education more as a frail hope than a firm promise …they are less likely to delve headlong into the meritocratic fray within education*

What appears to be highlighted here is a difference in society of educational cultures (Biesta, 2011). The meritocracy/participation issues highlighted by different levels of capital, including embodied capital and economic capital (Bourdieu, 1997), can accentuate the true level of opportunity and delineate the impropriety of the marketisation of education in a market that favours the dominant ideology. Goldthorpe (1997) also acknowledges problems with the concept of meritocracy. In describing how American functionalists acknowledged the concept of achievement over ascription (for example, characteristics of a person's family of origin) as being the main criterion of social inequalities in post-industrial society, he points to suggestions that this constituted the idea of merit in what amounted to inter alia, an increasing " 'knowledge intensiveness' of all forms of economic activity" (Goldthorpe: 1997, p 665). However merit, he suggests, is not given a satisfactorily objective description.

Moreover, in so much as that the knowledge intensiveness amounts to formal qualifications, the use of such qualifications for employability may end up as being no more than credentialism which can be described as where:

> … *qualifications are being used not in the interests of raising levels of individual competence and societal efficiency but, on the one hand, as an aid to relatively quick and cheap 'people processing' on the part of employing organizations and, on the other, as a means of maintaining rather than reducing disparities in relative rates of social mobility between different classes or status groups.* (Goldthorpe: 1997, p668)

Moreover, Hayek (cited by Goldthorpe) is further of the opinion that what some would have described as merit is only of use if it has value in the market. This can be compared with what Bourdieu (1997) would call the converting of cultural capital into economic capital. Moreover, Hayek is claimed by Goldthorpe to stand "clearly opposed to any attempt to legitimate social inequality in 'meritocratic' terms" (Goldthorpe: 1997, p670). Inequality is said by Hayek to be caused by the market economy and, for example, the processes associated with supply and demand of goods or services. In general, attempts to enable the individual to compete on the basis of ability, or a liberal notion of equal opportunity[39] can be placed within the concept of formal equality.

3.2 FURTHER EQUALITY DISCOURSE

Much has been made of the confusion between the attainment of objectives based on egalitarianism and meritocracy. The version of equality embedded in both of these outlooks is very different. Meritocracy is somewhat like an educational survival of the fittest. The egalitarian version of benefit has implied that "in some sense people should

[39] http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/equalopportunities.htm

become equal as a result of their schooling" (Entwistle: 1978, p13). Other concepts in the equality discourse also court controversy. Entwistle (1978, p14) considered that:

> *Beyond the elementary level, and probably not even that far, keeping educational achievement equal between individuals would entail levelling down to an extent that any educational reform directed towards such an outcome would be politically unacceptable.*

The idea of levelling down which would involve "depressing the rate of learning of some" (ibid., p15), is a concept that might be politically unacceptable but would also be difficult to achieve in any case.

The embodied cultural capital (Bourdieu, 1997) of a learner is part of a person's being and drives a learner's direction of learning. A person's disposition is part of personality and the hindrance of a multiple of individuals might be more difficult than the motivation of the collective. Hence, the establishing of an educational culture to enable the educationally disadvantaged would seem more likely for equality than any forms of restraint. Lynch (1999, p287) claims that the liberal agenda has no real prospect of being able to "... promote equality in any substantive sense ..." . The Educational Disadvantage Committee (EDC) followed with an assertion of the need for equality of condition (EDC: 2005, p19) which is based on policies "underpinned by a political belief that all people are equal and therefore these policies aim for equal status for all citizens" (ibid., p20). This is a radical view of equality and differs from the normally basic and liberal underpinned views of equality in Ireland. It had also been alluded to by Lynch (1999, p300) that equality of condition goes beyond what schooling can achieve in that "It involves equality of economic and political conditions, and equality of respect." It could

also need widespread changes in constitutional and legislative frameworks (ibid). This suggests a link between cultural and legislative practices.

In a more recent article, Lynch and Baker (2005) outline five dimensions for equality of condition and within these are included resources, power and working/learning. There is a clear relation between resources and capital (in the form of economic, social and cultural). The uneven distribution of power levels in society has repercussions for participation in politics, education and general decision-making representations in society. Whereas the working/learning dimension has, for example, relations to both resources and power in terms of the ability it grants to successful participants to engage in the pursuit of either or both. There is also a two way link between working and learning in that both may accommodate each other particularly when one considers the recognition of prior learning within the work environment. However, Lynch and Baker (2005) consolidate acknowledgement that there is no internal settlement within education to solving aspects of resources and power. It needs to be understood that:

> *while education is a very powerful cultural institution it is by no means the only one and its work needs to be complemented by wider initiatives in the media, workplaces, law and politics if it is to be fully effective.* (Lynch and Baker: 2005, pp 147-148)

In saying that, it is useful to note that the idea of equality of condition is not a new idea. As early as the 1970s, Midwinter considered that:

> *Faced with the sheer hard fact of social deprivation, one could hardly escape the view that equality of opportunity was, without equality of conditions, a sham.* (Midwinter: 1972, p 12)

More recently, even though there is acknowledgement of equality of opportunity, equality of participation and equality of outcomes by the EDC (2005, p19), it is then suggested that only when equality of outcomes is achieved, can equality of condition be so. Hence, Lynch and Baker's (2005) warning in the same year as the EDC's publication is timely when they state:

> *It is tempting to call equality of condition 'equality of outcome' in order to contrast it with the idea of equal opportunity, but that can be a little misleading, because there is no plausible egalitarian theory that says that the outcomes of all social processes should be the same for everyone.* (Lynch and Baker: 2005, p132)

This statement tries to highlight that there is a specific nature to equality of condition. It is according to Lynch and Baker about securing that all have "roughly equal prospects for a good life" (ibid., p132). This has an element of subjectivity that causes concern about what constitutes a good life. Defining the concept of a good life by legislation or otherwise could cause a problem. Lynch and Baker (2005) suggest that focusing on outcomes, particularly in terms of school grades, could concentrate on education/learning as a product more than a process. If culture is a way of life (Biesta, 2011) and learning is a cultural practice (ibid), it becomes difficult to align aspects of learning as product with a process such as lifelong learning.

The use of employability (ability to be employed throughout life (Brine, 2006)) as an outcome may not be so difficult to align with lifelong learning and a way of life. This could happen if the attainment of educational qualifications could take account of different cultures and not focus on one ideology that seeks to accommodate one culture only. Educational qualifications in this sense as opposed to the more conventional

understanding implied by Lynch and Baker (which caters more for a given habitus and cultural capital as applied to the more dominant groups in society), might allow a focus on outcomes and envisage an alignment of these outcomes with an equality of condition.

4 ACCOUNTABILITY

Biesta (2004, p234) highlights two distinct meanings of accountability as a term. These are the "technical-managerial meaning" and what he calls the "looser, more general meaning" of "being answerable to". The former has been part of the discourse of the New Right in education in recent decades. This meaning has expectations of an auditable society within which, for example the education system, is adapted to what was in historical terms a financial process rather than the audit process being adapted to education. Essentially the technical-managerial culture of accountability serves as a system of governance rather than a system of responsibility (ibid., p235). Approaching matters from a different angle, accountability in education as a concept, according to Levin (1974), may involve: the process of reporting; the search for a method to improve results; a focus on achievement of goals for a given group; or a change of or in the institutional structure itself. A so-called *perfectly accountable system* is described as "one that maximizes the utility or satisfaction of the relevant constituencies subject to resource (and possibly other) constraints" (ibid., p375). In trying to come up with a system of accountability to include all four aspects mentioned, Levin (1974) alludes to the fact that the ultimate objective for education is to change educational outcomes into social outcomes. This will depend on "the structure of society and how it rewards particular educational attributes" (ibid., pp 386-387) but also on the fact that:

> *we are on exceedingly shaky ground when we try to translate educational outcomes into social outcomes since the latter are generally considerably removed in time and space from the former, and a dynamic social, political, and economic structure is likely to alter these relationships over time* (ibid., p387).

Levin's (1974) observation of the dynamic nature of society does not give adequate consideration to the idea of learning as a process in spite of the use of the word dynamic and could be considered to be announcing, at least in one understanding, the changing symbolic capital of educational credentials over time. Although Levin's comments are from an earlier era, the methods employed for accountability may be the same but the understanding or ideology behind the methods employed are different in more recent discourse. The change from a political relationship to an economic relationship in aspects of society accompanies the change to New Right policies (Biesta, 2004) and manipulated claims of democracy.

The present culture of accountability also directs a focus on the product/process debate with regard to learning. Biesta (2011) alludes to the fact that learning does not happen in a cultural context. It is a cultural practice. Nevertheless, this culture of accountability has created a context that influences how the education system is managed. Lynch and Baker (2005) warn of the inappropriateness of learning as product instead of as process, as discussed above in terms of school grades. Gleeson (2011) also discusses the objectives model (product) as against the process model and the appropriateness of these for information/skills or knowledge/understanding respectively. This discourse emphasizes the need for a method of qualification accreditation that is, to some extent at least, time and space/location resistant. It raises the question about the balance between

information/skills and knowledge/understanding in the FE sector as opposed to, for example, the HE sector. Biesta (2004) implies that within the product/process debate, it is not necessarily the lack of emphasis on process that is the problem but the failure to engage in democratic discussion about the required product of learning. In the current culture of accountability

> *quality assurance practices typically concentrate "upon systems and processes rather than outcomes". Quality assurance is about efficiency and effectiveness of the process itself, not about what the process is supposed to bring about. In this light, it is easy to see why the … constant emphasis on 'raising standards' is ultimately vacuous: it lacks proper (democratic) discussion regarding which standards or 'outcomes' are most desirable* (Biesta: 2004, p238).

Ball (1990, p69) demonstrates a similar sentiment when he asserts that little discussion has taken place about whether education can even be considered as a product within a system where the "taken for granted assumption … is that business methods and market forces are the best ways, the most appropriate ways, to plan and deliver education". Levin's (1974) utilitarian (maximizing the utility or satisfaction) viewpoint on accountability may not be the only one either. A punitive (proportionate application of negative sanctions) aspect to accountability may also be recognized particularly if the punitive function of a legislative accountability is involved. In a market economy those without sufficient economic capital are liable to be excluded and thus suffer punishment.

In the FE sector when employability of the 16-24 year old age cohort is focused on aspects of cultural capital, particularly the institutionalized format in the form of credentials, there is a necessary consideration of the convertibility of capitals (Bourdieu, 1997). The converting of cultural capital to social capital allows us to consider

employability as a social outcome as well as an economic and cultural outcome. If demand-side policies are properly considered, which analyse and treat the structural aspects of unemployment in areas with the greatest need of economic development, Levin's (1974) mention of the removal in time and space of the social outcomes from the educational outcomes may not be as damaging.

Epstein (1993) also mentions the aspect of defining accountability. In doing so, she claims that the political Right has made most of the running in this regard, to the detriment of equality and social justice issues. This has been done by pushing ideas like the marketisation of education and instituting hierarchical forms of accountability in the form of inspections and the like. She recommends that the political Left pay more attention to doing their bit in this area so as to decrease the damage being done to anti-oppressive education or what Freire (1972) called dialogics. This Epstein (1993) claims could involve democratisation where negotiation and dialogue are allowed. This equates to what O'Brien and Ó Fathaigh (2007) refer to as learning partnerships. Ball (1990, p44) describes how New Right education policies and notions of accountability have been influenced by the dismissal of some of the political Left educational ideas as standing for educational mediocrity in the search for social justice. The equating of Left ideas to a counter-text, he explains, has had clear negatives undertones (ibid., p56). Accountability as a concept in New Right discourse has given rise to the idea that "policy as politics, as ideology, is apparently replaced by policy as rationality – efficiency replacing social justice. The discourse of the New Right thus effectively depoliticizes education." (ibid., p59). Biesta (2004, p241) says of the current culture of accountability, the technical-

managerial emphasis, that it is an "apolitical and antidemocratic strategy that redefines all significant relationships in economic terms". Hursh (2005) also outlines the effects of what he terms neo-liberal post-welfare state policies in education, such as those outlined by Epstein (1993) and others. He states that:

> *Under neo-liberal post-welfare policies, inequality is a result of individuals' inadequacy, which is to be remedied not by increasing dependency through social welfare, but by requiring that individuals strive to become productive members of the workforce* (Hursh: 2005, p4).

He continues that "employability and economic productivity become central" (ibid., p5). If employability is a reflection, to some extent at least, of an individual's *human capital*, which is in turn related to knowledge and skills, a question arises as to who decides on the knowledge content. Hursh (2005, pp11-12) also points to the confusion when individualism is pushed in parallel with an inclusive society, and the latter he says pushes for "access to opportunity and not equality". This in turn could be labelled as potential for power redistribution to be mismanaged if accountability issues are not democratically monitored.

When Foucault (1984, p51) mentions the "interweaving of effects of power and knowledge" it becomes apparent that the more powerful may dictate what knowledge is appropriate to satisfy their needs and therefore restrict the possibilities of power redistribution. However, Foucault (1984) also distances the concept of power from being a totally repressive force. He states that

> *What makes power hold good, what makes it accepted, is simply the fact that it doesn't only weigh on us as a force that says no, but that it traverses and produces things, it induces pleasure, forms knowledge, produces discourse. It needs to be considered as a productive network*

> *which runs through the whole social body, much more than as a negative instance whose function is repression* (Foucault: 1984, p61).

Foucault's distancing of power from repression is similar to the hope within Bourdieu's (1977) "structuring structures" or habitus, because while both power and habitus point to the elements of control on human endeavour, they also allow an understanding that mediation through, for example discourse, is possible. While Foucault says that relations of power "extend beyond the limits of the state", (ibid., p64), nonetheless the power of the state for aspects of accountability in education will be further discussed next from a globalised viewpoint.

4.1 ACCOUNTABILITY AND GLOBALIZATION: STATE OF THE NATION

The investigation of *accountability* entertains individual and collective interests within a state and illustrates how a dominant ideology gives rise to the manifestation of educational policy in, for example, the FE sector. Employability, in the case of globalization, can exhibit aspects of the collective interest as well as the individual interest. Globalization is described by Hay (2006) as the "competitive imperatives of a borderless world characterized by the near perfect mobility of the factors of production". Here Hay describes a world economy which is a competitive market place. Acknowledging competition suggests economic dangers for the state. This raises a question about globalization and the ability that ensues from it to stifle or even eradicate national interests and powers, as against a nation state's power structure to follow its own goals. It also raises a question about how states will endeavour to become more competitive.

In terms of initiating a search for comparative insights aided by the use of a critical policy analysis and a comparative agenda, it might be assumed that there is a choice of what policy to implement in the education arena in any given country. This comparison and contrasting of ideas within jurisdictions could ideally be used to facilitate the improvement of Irish education and employability policy or it could help to avoid pitfalls or encourage continuation of present policy. Nevertheless, the term globalisation as outlined above, throws a question over the degree of flexibility and freedom that the Irish government has in this regard. This aspect becomes even more important in this present study, if Dale's (1999, p9) suggestion is taken that globalization for education may be construed "as a mechanism of introducing external influences to national education systems". The mention of external influences may suggest an inherent national character to begin with. Such a character is easily confused with a dominant ideology at a given time, the latter of which is just as likely to be the catalyst for defence against these so-called external ideas.

Dale elaborates his views on globalization by claiming that, as a process, it tends to influence policy goals as well as policy processes. He then reassures that the "societal effect" in the form of national "legal, financial, education and training policies" (ibid., p5) can filter any externally initiated influences. Therefore, what he is saying is that countries, Ireland included, may have many different aspects of globalization trying to influence how their policy goals and decisions are worked on but there is a national identity that may determine just what if anything is done in view of this pressure. This is

further emphasised by the statement that many of the external influences are predominantly indirect. Moreover, he claims that:

> *the clearest effects of globalization on education policy come from the consequences of states' reorganization of their priorities to make them more competitive … The key characteristic of the competition state is that it prioritizes the economic dimensions of its activities above all others* (Dale: 1999, p4).

The ability of states to be competitive would again seem to imply the ability of an individual state to make its own efforts in this regard. This attracts further emphasis on the societal effect which is included in the cultural perspectives considered in the present work as, for example, ideology. A similar idea is encompassed in the idea of the nation by Poulantzas:

> *The nation, in the full complexity of its determination – a unity that is at the same time economic, territorial, linguistic, and one of ideology and symbolism tied to 'tradition' – retains its specific identity as far as the 'national forms' of class struggle are concerned, and in this way the relation of state and nation is maintained … this not only affects the position of the national state in relation to internationalization and any potential "superstate", but also shapes forms of popular resistance to internationalization* (See Jessop: 2002, p197)[40]

Here a national identity acts as the filter mentioned by Dale earlier. Although Jessop (2002) argues that Poulantzas places too much emphasis on class reductionism or the struggle between the classes, it does illustrate the aspect of power struggles as relevant in the discussion of globalization. If Poulantzas' argument is correct and the nation retains its identity based on class struggle, for example the manifestation of a dominant ideology, it would seem to indicate the relevance of policy transfer mechanisms in globalization

[40] Cited and paraphrased in Bob Jessop, "Globalization and the National State" in *Paradigm Lost – State Theory Reconsidered* edited by Stanley Aronowitz and Peter Bratsis (Minneapolis: University of Minnesota Press, 2002), Chapter 8, at p. 197

and the likely need to accept outside influence to aid with the combating of educational disadvantage. This policy transfer could amount to a paradigm shift in dealing with aspects of disadvantage. On the other hand, if Jessop (p199) is correct and other social forces, for example learning partnerships (O'Brien and Ó Fathaigh, 2007), dialogics (Freire, 1972), and the media, are as important as class struggles, it does not diminish the possible use of globalization effects to aid with any problem encountered by states. Where a problem could arise is when help is not required but forcibly introduced. This is more like imperialism in the older historical sense. The influence of the European Union (EU) is an example worth considering in a discussion on such matters.

Zafirovski (2007), with regard to economic distribution/incomes in the labour market, would take ideas from the discourse of those like Jessop and Poulantzas and discuss from a mainstream/orthodox economist's position and an alternative one. The mainstream/orthodox position is said to attribute economic distribution to market processes and the claim that everyone gets what they deserve in a well-functioning economy, which in turn leads to societal stratification. There is an implication here that individual decisions, considered neutral and available to all, are crucial to one's position in social stratification. The suggestion is that class struggle is not between the so-called haves and have nots but more of a meritocratic reward system where those who have made the effort will get what they deserve. Because of Zafirovski's claim (2007, p2) that this understanding of distribution is "purified or abstracted from the impact of stratification variables like class, power, status as well as politics, ideology, ethics, religion, ethnicity-race and related extraneous and usually prior social factors", he puts

forward the counter argument that economic distribution is influenced in particular by prior aspects of power, status and class.

In other words, meritocracy masks the inequalities that already exist in making one's choice vis-à-vis educational position – a choice that is contingent on one's social positioning throughout one's education. He does acknowledge though, that his argument is based on other things being equal and implies that if, for example, human capital is brought into the discussion that the situation may be different for a given individual or group. This appears contradictory in view of the fact that he also condemns reductionist arguments that explain better salaries in the labour market on human capital grounds. The conclusion by Zafirovski (2007) that mainstream/orthodox economics and its favouring of market forces allows the suspension of the principle of distributive justice is exacerbated by the notion that without the acknowledgment of power, status and class influences on society, inclusion of the educationally disadvantaged, even with human capital improvement, may not have a chance to take place.

Brown and Lauder (1997) show greater practical concern to questions of human capital. Firstly, they do so with regard to globalization and economic development. Secondly, although essentially agreeing with Zafirovski (2007) with regard to the position of power in society in particular, they also conclude that education and the development of human resources is essential to combating the unjust fallout from power-influenced economic distribution. To illustrate their point they use a comparison of the New Right's Neo-Fordist approach and the left-modernizer's (such as Britain's New Labour) Post-Fordist

approach to competitive economic development. While agreeing somewhat with the latter's view in that there is an advocacy in favour of the prime position of human capital, the argument is that the "question of equity" is not adequately addressed, which in effect agrees with Zafirovski's position. Brown and Lauder assert the opinion that:

> *When education becomes a positional good and where the stakes are forever increasing in terms of income, life-chances, and social status, powerful individuals and groups will seek to maximize their resources to ensure that they have a stake in the game by whatever means. Therefore, how the state intervenes to regulate this competition in a way which reduces the inequalities of those trapped in lower socio-economic groups must be addressed, not only as a matter of economic efficiency but also for reasons of social justice in a post-Fordist economy* (Brown and Lauder: 1997, p187).

Here it can be seen that state intervention/regulation is considered necessary which is in contrast to neoliberal tenets lauding lack of state intervention. The state's accountability for the change in or of the institutional structure as mentioned by Levin (1974) becomes paramount to any power struggle in this sense. A critical policy analysis can assess whether a power/class struggle can undermine an initiative in human capital attainment. Although other arguments can be put forward about the uses of human capital procurement, some of which are highlighted in the next section, this thesis will focus on the influence that the dominant ideology has on the employability interventions within the concept of human capital.

5 HUMAN CAPITAL: A DISTINCT POSITION?

Woodall (1997, p219) relates that:

> *The concept of human capital refers to the fact that human beings invest in themselves, by means of education, training, or other activities, which raises their future income by increasing their lifetime earnings.*

Whether or not human capital improvement is related to increased income is open to question. One reason in favour of the argument claims a worker's increased productive capacity. Woodall (1997, p219) acknowledges that there is criticism of this point which argues that productive capacity is not improved by education, and increased levels of education and training only serve as a screening device. This view might allow an employer to identify an individual with "higher innate ability or personal characteristics which make them more productive" (ibid., p219), where the *personal characteristics* might include views on authority, punctuality or being motivated (ibid., p222). What she concludes appears to combine these ideas by claiming that the investment in human capital "must be extended to include activities which affect personal attributes as well as skills" (ibid., p222). If the effect on the personal attributes and skills is taken to mean a positive influence, the former has some resemblance to attributes that can develop social capital. Coleman's (1997, p81) description of social capital as facilitating "certain actions of actors" which could include productive capacity can be related to the skills and training aspect of human capital. He states that:

> *If physical capital is wholly tangible, being embodied in observable material form, and human capital is less tangible, being embodied in the skills and knowledge acquired by an individual, social capital is less tangible yet, for it exists in the relations among persons. Just as physical capital and human capital facilitate productive activity, social capital does as well* (ibid., p83).

One form of social capital mentioned by Coleman is the *norm in a community* which can support and establish rewards for educational success (ibid., p85). The ability of FE to achieve such respect from a community whereby FE cultural capital, in the form of

institutionalised capital (educational credentials) as mentioned by Bourdieu (1997), is sought after, is arguably based on the foothold of FE in the education system.

As a social structure related to, for example, the legislative mechanisms within a jurisdiction, the education system is dependent on the will of an agent, for example agents of government. Because of what Coleman calls the "public goods quality of most social capital" (Coleman: 1997, p93) which claims that the benefits may not be felt by the instigator (government and dominant ideology), there is a follow on claim that it may not be in the interest of those in power (government and dominant ideology) to carry through with any efforts to establish the social capital (adequate respect for FE system) in the first place. This may be experienced in a lack of preparedness to strengthen a sector not necessarily used by those in power (for example in economic competitiveness) as opposed to the disadvantaged. A norm that would greatly influence the more positive recognition of FE success in the community may suffer as a by-product (ibid., p93) of power struggles (with regard to ideological dominance). Although, O'Brien and Ó Fathaigh (2005, p67) indicate that taking both Coleman's and Puttnam's theories of social capital together, "the general accord is that social capital constitutes positive social control", the power struggles outlined above lead one to suggest negative social control.

O'Brien and Ó Fathaigh (ibid, p69) say that Bourdieu sees social capital more in the sense of individual rather than communal gains. This can be interpreted alongside the concept of habitus, as explained in terms of how "objective structures and subjective perceptions impact upon human action" (ibid., p68). The term *impact* in terms of an

influence suggests a possible deviation from any prior expected route of thought and action. This is emphasised from a Bourdieuian perspective by O'Brien and Ó Fathaigh (ibid, p70) when they explain why an analysis of social capital cannot be done without relating to social exclusion. It is emphasized that:

> *Educational participation … is thought of as an extension of participation in society at large and is thus contingent on wider political, economic, social, and cultural factors. Accordingly, non-participation is challenged not on individual/cultural deficit terms but in relation to the perceived need to effect societal change* (O'Brien and Ó Fathaigh: 2005, p70).

Bourdieu's (1977, p169) mention of doxa ("that which is beyond question") and the fact that the "dominated classes have an interest in pushing back the limits of doxa and exposing the arbitrariness of the taken for granted" (ibid.) has relevance here. If habitus and doxa are in accord, change is unlikely. However, the individual's ability to exercise change "through their subjective appraisal of 'objective realities' … primarily based on individuals' capacity to mobilise capital(s)" (O'Brien and Ó Fathaigh: 2005, pp70-71) is implied by Bourdieu. Just as social capital and social exclusion can be associated, cultural capital and social exclusion can also be looked at together.

In spite of Bourdieu's implications for change, Brown (1997, p738) although suggesting that "cultural capital has long been recognised as vital to the reproduction of the middle classes" also claims that Bourdieu has "exaggerated the inevitability of middle-class reproduction". This, Brown (1997, pp742-743) suggests, is largely based on what he sees as a change in employer recruitment activities. The bureaucratic paradigm is being challenged by the flexibility paradigm. This entails a situation where the possession of credentials is only a part of the requirements sought by employers. The bureaucratic

paradigm, which involves a preference, for example, for clear managerial "roles, rules and procedures" along similar lines to Max Weber's bureaucracy, is being opposed by the flexibility paradigm. The latter includes an extension of Weber's *charismatic* personality which establishes aspects which affirm that:

> *inner determination, drive and strength are given greater weight than conformity to external bureaucratic controls … In essence, the charismatic personality is the opposite of the bureaucratic, in that it assumes 'personalised' relationships with colleagues and the need for mutual compatibility, as much as the acquisition of expert knowledge* (Ibid., p743).

In Bourdieuian terms, this is like a combination of social capital and cultural capital. This has been complicated according to Brown by what he recognises as:

> *this shift in the 'rules of engagement', from that based on 'merit' to 'the market', is associated with the increased importance of material capital required to meet the escalating costs involved in acquiring the appropriate forms of cultural capital …Moreover, as access to cultural capital in the form of scarce credentials and charismatic qualities come to depend upon market power, the education system can do little to improve the prospects of disadvantaged students* (ibid., pp745-746).

Even though Brown argues that Bourdieu exaggerates a claim of middle class reproduction, the shift in the rules of engagement mentioned by Brown would seem to indicate that at the very least the middle classes are using their greater material or economic capital to exert an unfair influence on the market. If the possession of an academic qualification can be taken as the institutionalised state of cultural capital, with the accompanying "conventional, constant, legally guaranteed value with respect to culture" (Bourdieu: 1997, p50), the cultural capital in that academic qualification, by allowing comparison between "qualification holders" (ibid., p51), may denigrate any sector of education not seen as prestigious enough to be utilised by those in power as long

as educational qualifications are being used by employers, even if part of a flexibility paradigm.

Coleman referred to the public goods aspect of most social capital. Moreover, Bourdieu (1997, p48) acknowledges that a human capital definition tends not to move beyond economism or economic reductionism. The public/private good aspects of human capital, with a particular emphasis on economic benefits, will now be looked at.

5.1 HUMAN CAPITAL AS A PUBLIC OR PRIVATE GOOD

Hufner (2003, p339) says that a "public good is generally defined as a good that people can consume without reducing what others consume". Although writing about higher education, this aspect is also relevant to further education (FE). From an economic perspective, he elaborates that a public good's benefit is not limited to certain consumers, nor is it restricted by the fact that another has used this benefit, nor can it be utilised for profit as this would lead to exclusions. This immediately throws at least a doubt on the idea that FE is a public good because places in FE courses are certainly not infinite which would appear to restrict the benefit, and marketisation of education and competition for consumers amidst a declining ability of government funding, has profit potential for more competitive institutions. This becomes even more relevant in a transition from elite to mass post-compulsory education. In an attempt to widen access, the inability of government funding to keep up with mass demand becomes a possibility.

Moreover, the lack of public funding can have influence on the ability of the disadvantaged to pay causing an exacerbation of exclusion issues unless remedies to combat same are found. Failing such may make FE limited to certain consumers only. The question then arises as to whether FE might be considered as a private good if aspects attributable to public goods, as described by Hufner, are not immediately recognisable. An argument can be made in any case to question the need for this line of thought. In the first instance, the limiting of places to only the more powerful and wealthy, is unlikely to take place unless a state of absolute marketisation takes place where government funding is non-existent and rules of positive discrimination are absent. Secondly, the restriction of places in FE because of prior use of the benefit can at least in theory be combated for equal opportunity by such measures as positive discrimination, and for availability of sufficient places by coordination with those places in higher education (HE). Whether the more powerful require as many places in FE as HE is another point that could be debated. Thirdly, aspects of marketisation do not only have to be aimed at the consumer and participation, but can in the interests of accountability, be aimed at the producer of FE. The latter's accountability can include requirements by government to include the educationally disadvantaged or other conditions that dilute profit incentives.

Another facet within the discourse on the public/private good is the dualist approach of Market versus State. Although writing about HE, most of Marginson's (2007) ideas are as applicable to FE. He claims that within liberal theory the dualist approach of economic and statist viewpoints are dominant. This is represented in the former case (economic)

with comments relevant to markets and externalities or spillovers. The externalities or spillovers "in education" refer to "benefits not fully captured by the individual producer or consumer who pays for the costs of education" (Marginson: 2007, p312). In the statist argument, the distinction between state and non-state becomes relevant. This Market versus State dualism, according to Marginson, is not the only viewpoint and might serve to highlight ownership issues when what may really be important is a focus on purposes and policy (ibid., p320). A salient issue that is argued by Marginson is that the public/private dichotomy is not necessarily a zero-sum situation where one cancels the other on a sliding scale. In some situations they can augment each other and be dependent on policy decisions. Employability as a policy track is one such area.

In the context of globalisation, the government policy agenda is still important even though they need not have a monopoly in this regard. Moreover:

> *Global private goods are broadly understood. Global public goods – and the potential contribution of inter-governmental forums, and non-government agents, to those goods – are not* (Marginson: 2007, p330).

This alludes to an underdevelopment of globalised aspects of society or in the case of education, the lack of understanding or use of the public/private good debate on a globalised as opposed to a national level.

From a national education standpoint, the enabling of aspects of a private good, for example in employability, through the education system, in the form of understanding and productivity, may be paralleled by attributes like promoting civic responsibility and embracing a common set of values which serve as public goods (Levin, 1999). In the

globalised sense, although still developing private aspects, the public correlates seem destined to fail if Marginson is correct. In the globalised economy this may lead to a false consciousness whereby although claiming to prepare for the globalised economy, the actual underdevelopment of public goods, like knowledge and qualifications that can travel for international use, leads to a zero-sum instance where policy fails to augment the development of private goods. If FE is a mix of public/private goods, this failure may underscore a need to rethink policy for the global arena. Parallels are seen here with arguments developed by Dale and Poulantzas above. Dale's argument about globalisation in the education arena being a matter of introducing external influences is contrasted again with the strength of the nation state's resilience in exerting its influence.

In examining the various arguments of those such as Dale, Poulantzas and Marginson, it elevates the public/private debate to a new level, particularly if the debate is not considered as a zero-sum agenda. This arises as the position alluded to is one where private goods are seen as important at national and global level, but public goods, although deemed relevant at national level appear to be underdeveloped at global level. If globalisation is to influence policy goals as well as policy processes for the better, even when filtered for national identity, the underdevelopment of the public good aspect at the global level for nations could influence inclusivity. Marginson says that:

> *global public goods include knowledge in the different fields; the effects flowing from the passage of academic ideas and knowledge, and cross-border research collaborations. There is cross-cultural exchange, and the augmentation of international understanding and tolerance. There are the systems and processes for facilitating cross-border recognition of universities, qualifications and individuals, etc* (Marginson: 2007, p325).

It does not take much to see how for example, the recognition and understanding of foreign cultures, the transfer of labour, qualification recognition and the desired transfer of academic innovations, from a small market like Ireland requires proper policy recognition of public goods on the global level.

From a critical policy analysis perspective in this thesis, what Jessop (2002) calls a reductionism to class struggle as described by Poulantzas when discussing aspects of the nation's identity, has to be assessed in view of the power relations, relationships of communication and objective capacities (Foucault, 1982). The latter three are represented in the eee link here by participation, accountability and human capital. If controversies within discursive strategies like the academic/vocational divide, skills mismatch issues, economic capital superiority and the legitimacy of FE qualifications can be allowed to hinder, for example, the public goods development on the globalised level because of a dominant ideology on the national scene, the conclusion could be that the development of public and private aspects of human capital from the national perspective may have limiting characteristics that influence Ireland's globalised identity and credibility. In view of Ireland's membership of the EU, and the freedom of movement of workers, this is a material point for critical analysis with regard to employability.

6 CONCLUSION

This chapter set out to look at some key cultural practice perspectives. Culture is reflected in any jurisdiction. It is produced but also produces. It is causal and exists in effect. Having initially discussed aspects of an educational culture, participation was

outlined as extending beyond student activity to part of social relations generally. In a similar fashion, accountability was presented as ranging beyond performance criteria alone towards an equality of condition also. This analysed the alignment of education along economic rather than strictly political lines within an ideology of an auditable society. The product/process debate was assessed in terms of the democratisation of education. The potential of a change from a bureaucratic paradigm to a flexibility paradigm by employers to include not only human capital as credentials and skills, but also personal characteristics for employability was considered along with legitimacy issues for FE. Also, the fear that public goods on a global level are not being properly developed was raised in terms related to the economy, employability and FE.

The fact that employability is of such relevance to the study means that a post-welfarist, post-Fordist, globalised economy and the ensuing practices are inevitably going to be pertinent. Yet, the attraction of globalised markets may be counterbalanced by the stifling of individual state independence where the intrusion of bigger state or jurisdictional power is evident. With a similar cautionary note in mind, the critical policy analysis in this study will be influenced by how the jurisdictions under investigation utilise their policy interventions in a power based manner. The next chapter will focus on key legislative practice perspectives which are influenced by the cultural milieu. The chapter centres on developing a focus for critical analysis which is underpinned by legislative functions. This will enhance the present chapter's thematic focus and allow a more rounded critical analysis in appraising some comparative insights.

CHAPTER FIVE

KEY LEGISLATIVE FUNCTIONS: A FOCUS FOR CRITICAL ANALYSIS

1 INTRODUCTION

> *The main problem to which sociological jurists are addressing themselves today is to enable and to compel law-making, and also interpretation and application of legal rules, to take more account, and more intelligent account, of the social facts upon which law must proceed and to which it is to be applied ... the sociological jurist pursues a comparative study of legal systems, legal doctrines, and legal institutions as social phenomena, and criticizes them with respect to their relation to social conditions and social progress* (Pound: 1912, pp512-516).

Here, Pound identified what he saw as an emerging discipline for sociological jurists, and in a very early article, went on to illustrate some areas appropriate to this discipline which are still very relevant today. The following (ibid., pp513-515) give an indication of aspects among these: the study of the "social effects of legal institutions and legal doctrines"; "sociological study in connection with legal study" when preparing for legislation. Examples here include comparative studies of similar legislation which would include its effects as well as the areas that are legislated for; an investigation into the "sociological legal history", as to how past laws have influenced and been influenced by societal conditions.

This chapter will examine the role of legislation in education, with the particular interest in the educationally disadvantaged for this present work in mind. It will look at the education system as an important social institution of society. Some have referred to the treatment of such topics as socio-legal research or sociological jurisprudence, while others would have it referred to as the sociology of law. These are mentioned as two ends of a continuum and this thesis will operate within the range of both poles. Sociological jurisprudence aims at debate within the realm of law extending to society, whereas the

sociology of law would argue that a social theory of society is needed before the aspects of society extending into law can be properly understood (Harris: 1997, p250).

For legislation to be worthwhile in any aspect of society, particularly one that has operated largely without it, such as the FE system in Ireland, it is necessary to show the benefits that can accrue from its use. The benefits will be sought in this thesis from a critical theory standpoint as discussed in chapter three. This chapter centres on developing a focus or set of discussion points for the critical analysis which is underpinned by legislative functions. A discussion to evaluate the position will be aided by the set of functions of law as outlined in table 1. The power relations, relationships of communication and objective capacities (Foucault, 1982) that contribute to any use of legislation will be considered in view of Habermas' use of the term juridification. From a comparative aspect, this study will look at the legislative environment in conjunction with the cultural environment as they are both critically analysed for comparative insights for Ireland. The area of employability amongst those considered to be socio-economically educationally disadvantaged is to be considered with FE as the sector of education of particular interest. This particular chapter will conceptualize the functions of law and enable the construction of a metalanguage within a conceptual framework for later analysis from the legislative perspective as this study evolves. This will be further outlined in chapter six on methodology. An outline of some key legislative functions is proposed in the following table. This presents the critical theory basis or metalanguage that is used to assess the benefits of legislation mentioned above.

FUNCTION	*DESCRIPTION*
Thematic	allows and is worthy of discussion
Normative	allows discussion to progress
Nominal	privileging a group or field by naming
Legitimating	to give a topic a tangible status where there is a duty on relevant parties to take some measures to react appropriately
Procedural	establishes an element of rules
Defining	setting the parameters of engagement and pinpointing who or what is affected
Proactive	acknowledging a need and forges progress
Institutional	allows objectives to be realized, ideally through accountability
Persuasive	encourages attainment of objective without sanction
Inciting	encourage by positive sanction
Protective	not the guarding of the ideological hegemony of the powerful classes but a proportionate safeguarding of objectives
Prescriptive	removal of choice or preference
Resourcing	apportioning of direct or indirect funding
Facilitative	to encompass authority to operate or allow sanction
Administrative	with observance and regulation attached
Functional	provides a realistic 'means' to an 'end'
Punitive	proportionate application of negative sanctions
Rectifying	alterations considered after judging whether a statute *can* attain or whether it *is* attaining objectives
Balancing	rational discussion on distributive and social justice issues
Efficient	achieves the objectives, but not just in economic terms

Table 1.

The benefits as judged will be the result of an ideological and a strategic critique (Fairclough, 2005). An assessment within the antagonism of strategies (Foucault, 1982) amidst nodal discourses like the knowledge economy and the eee link, which critically analyses the use of legislation for employability in the specific terms considered in this study, is timely in the Irish context. The assessment of whether the legislation can work *for* or *with* the educationally disadvantaged will also form part of that critique. The cultural environment relevant to the legislative functions was put in context in chapter four and also serves as a backdrop for the critical theory position taken by the author. Aspects such as the social, cultural, political environment will be of relevance to the critical analysis. As the chapter progresses the basis of the table of functions will become clearer.

To look at the ideological context, the relevant education/training programmes used and the impact of these in each of the three jurisdictions of interest, some key legislative and cultural practice perspectives will be analysed. Of relevance to this chapter on some key legislative perspectives is the question as to, what is the law or laws.

2 WHAT IS LAW?

Black (See Doyle and Luckenbill: 1991, p103) has said that law is "governmental social control" which he appears to separate from other forms of social control like "etiquette, custom, ethics, and bureaucracy" (ibid, p111). Bentham, a classical positivist, defined law, or strictly speaking "a law" as:

> *an assemblage of signs declarative of a volition conceived or adopted by the sovereign in a state, concerning the conduct to be observed ... such*

> *volition trusting for its accomplishment to the expectation of certain events ... the prospect of which it is intended should act as a motive ...* (McCoubrey and White: 1999, pp13-14)

Here is seen the basis of the command theory of law where the command is based on the will of a sovereign and backed by a sanction. The sovereign is not necessarily thought of as a singular person. The theory has been criticized for its failure to illustrate laws that are facilitative. These facilitative laws could enable the functioning of institutions, like education, as a subset of society. These laws could delineate the rules to enable the functioning of the institutional structure.

The command theory of law has been criticized for its failure to consider the obedience to a law based not on coercion or sanction alone but by authority also. The mention of authority as a concept within law would question Black's (see above) separation of law and, for example bureaucracy. As a concept, authority is similar to Foucault's (1982) "government of individualisation" mentioned in chapter three of the present study. It is an influence on the individual by the state. Both Weberian theory and the Frankfurt School of critical theorists envisaged an "ever-expanding network of management and control" (Greisman and Ritzer: 1981, p34) or Weber's "bureaucratic "iron cage" which would effectively negate the role of the individual" (ibid).

Bentham's censorial jurisprudence has potential for debate in the education arena for the socio-economically disadvantaged with regards to the concept of employability. This, as opposed to his expositorial jurisprudence, has as its basis the principle of utility or utilitarianism, a point made even more striking if as Harris (1997, p40) explains "A

measure may be justified by utility which increases the happiness of a few greatly even though it marginally diminishes that of the many ...". However, Bentham regarded "community" as a fiction in itself preferring to contemplate an "aggregation of individuals" (McCoubrey and White: 1999, p30). Legislation in this sense may move beyond the "government of individualization" and move closer to an equality of condition or "roughly equal prospects for a good life" (Lynch and Baker: 2005, p132). As mentioned in chapter four, there is a subjective nature to a good life which may be difficult to define in legislation.

Hart's theory within modified positivism considers the "essential element of law" to be the "combination of rules in the definition of formal social prescription" (McCoubrey and White: 1999, p34). These rules are discussed in detail and the idea that they have authority and obligation attached is fundamental. The meaning of the term obligation is open to debate and the question of who decides leaves the term dubious. Hart argues for what is often termed the union of primary and secondary rules where the latter are described as those that:

> *... specify the ways in which the primary rules may be conclusively ascertained, introduced, eliminated, varied, and the fact of their violation conclusively determined.* (ibid, p38)[41]

Dworkin does not agree with the idea that law consists only of rules. In his anti-positivist stance, he argues for the existence of other standards also such as principles. His view of law appears to suggest that law may serve to defend a citizen's rights. The stronger the right, the less support for overriding it by policy considerations.

[41] ibid p. 38 citing Hart, H.L.A., "The Concept of Law"

In the naturalist tradition, Saint Thomas Aquinas considered law (See McCoubrey and White: 1999, p73) to be " ... nothing but a rational regulation for the good of the community, made by the person(s) having powers of government and promulgated". Here the Thomist treatment of law acknowledges the good of the community which presumably, because of the acknowledgement that Saint Thomas gives the law as a rational regulation, should involve proper recognition of the rights of the disadvantaged. The acceptance of the facilitative aspects of the law is implicit. Just how any normative regulation is utilized will depend on the legal system involved, but the societal environment is very often governed by legislative measures and non-legislative measures (which are sometimes known as quasi-legislation or ersatz legislation) (Byrne and McCutcheon: 1996, p415). The education system can be governed by both types.

3 LAW AND CHANGE

The following will discuss some key legislative perspectives in the debate about the use of legislation before moving to establish the perceived functions of law in the next section.

A question arises as to whether legislation can change behaviours and attitudes. This is an important question if any legislation in, for example the FE sector in Ireland, has a policy goal of achieving more willing participation by the educationally disadvantaged. Behavioural changes may be at the heart of legislation, but if the attitude is not tackled from the appropriate capital perspective, the behaviour change may be half-hearted or lacking, particularly if the rewards are not obvious. To illustrate, this is where embodied

cultural capital or "the form of long-lasting dispositions of the mind and body" (Bourdieu, 1997) may contrast with legislative intent.

If an educational culture or "a learning culture that is framed by particular purposes" (Biesta, 2011) is not accounted for within the goals of any legislative attempts to improve participation, the utility of any legislation may be lost. This may arise if the legislative intent is based on the dominant ideology. The need arises to consider aligning legislative intent with the culture meant to benefit. Lyden (1970, p163), when writing in the 1970s, suggested that opinions on legislation and social change are divided:

> *Can law move ahead of the customs or mores of the people? The social theorists like Herbert Spencer and William Graham Sumner have asserted that it cannot, that legislation not rooted in the folkways is doomed to failure. Change in opinion must precede legislative action, and thus social change must be slow. Others have seen law as a positive force in initiating social change ... (people) ... allow themselves to be reeducated by the new norm that prevails.*

He went on to write that "it does appear that laws can serve to change behaviour" but in relation to attitude, he concluded that "Attitude changes may follow if the behaviour changes do not radically violate or contradict the norms governing the social ... relationship" (ibid, pp163-164).

Posner considered legislation as inefficient due to pressures of bargaining with interest groups:

> *When it comes to statutes, ... --- although those manning legislative and administrative agencies are themselves motivated by utility --- the rules they produce are inefficient. They are the result of pressures brought to bear by competing interests-groups, and the resulting compromises do not maximise total satisfactions.* (See Harris: 1997, p49)

Whereas Posner's use of the phrase *compromise* suggests a negative element to interest group participation, it does so by assuming that the immediate goal of any legislation will need compromise. This further assumes that the more dominant ideologies are protecting a given position. If a society is to be inclusive and achieve progress towards an equality of condition, the power struggles inherent in such compromises need to be curtailed.

In a similar manner to Posner, Jorgensen and Shepsle (1994) draw attention to the opinion that legislative intent is a "senseless" utopian ideal that is inextricably linked to the composition of the enacting coalition and deliberations of their negotiated agreements. Even so, Nourse and Schacter (2002, p590) in a study of legislative drafting, implied that statutes, inter alia, regularly set out rules, exceptions and definitions as well as identifying statutory actors. This by implication at least, leads one to think that these latter points are in fact functions also and cover aspects of a procedural or administrative nature as much as economic efficiency or competition. Nourse and Schacter also highlight the difference between what legislation should do and what it sometimes actually does.

Delnoy (undated) also writes of the legislative drafting process and separates the form from the content of norms. The content includes "the legislative intent" and is largely the expression of the function that the statute is meant to exhibit. While not supporting the deregulation "of the major spheres of social life" to curb legislative inflation, he is also aware of the political posturing alluded to by Jorgensen and Shepsle (1994) and Nourse and Schacter (2002). Legislative inflation describes the increase in legislation in society

and is accounted for as juridification by Habermas as seen in chapter three on critical policy analysis. Delnoy's apprehension towards curbing legislative inflation is based on the laissez-faire attitudes that can result from its implementation.

> *... when a legislature abolishes rules it had previously enacted or refrains from adopting new ones, this does not mean there is no normative principle governing the social relations in question. It means that, where there is no automatic rule in the sphere, there is a natural return to the rule of "laissez-faire" and thus to the regulation of these social relations by norms other than legal ones* ... (Delnoy: undated, p12)

This implies a preference for legislation to achieve certain "concrete" (ibid, p4) objectives, a point worth considering when looking at the relative dearth of FE legislation in Ireland when compared to some other jurisdictions.

Harris (1997, pp254-255) points to the separation of functions from techniques used to achieve them. Some of the functions mentioned include, "to protect basic freedoms", "to secure equality of opportunity", "to exercise surveillance and control over persons in power". Techniques mentioned (ibid., p255), also called instrumentalities or modes, are "the grievance remedial instrument"; "the penal instrument"; "the administrative regulatory instrument"; "the government benefit-conferral instrument"; "the private arrangement facilitating instrument". Not all of these would necessarily serve the needs of education but the administrative regulatory instrument and the government benefit-conferral instrument (for example, providing equality of condition) have particular potential. The technique pursued would need to involve interested parties from its inception, and this should be in tandem with recognition of the limit of laws which should not be employed where they cannot be supervised or properly enforced (ibid). The following examines the perceived functions of law in more detail.

4 FUNCTIONS OF LAW

Harris (1997) says that "We may think of 'function' as an overall legal goal, or as an attribute of particular legal rules". He complicates this apparently simple statement by saying that:

> *There are two problems for the idea of 'function of law'. First, by 'function', do we mean simply 'effects' or 'intended effects'; and if the latter, whose intention is crucial? Secondly, which segments of legal material shall we select before attributing to them any 'function'? It seems likely that the select-and-collect procedure we apply will be illuminated by normative presuppositions we ourselves bring to the task.* (ibid, p256)

Nevertheless, Thomas (1990, p12) illustrates what he sees as law's function in education:

> *Not only do laws and regulations establish education's goals or purposes, they also identify the kinds of institution or agency that make up the system, along with defining the roles, rights, and responsibilities of the institutions. Laws may also identify types of educational personnel, their roles, rights, and responsibilities. And at the regulation level, legal documents can define steps to be taken for carrying out a role or fulfilling a responsibility. Laws may also specify the sanctions to be applied to individuals and institutions for violating the law.*

In this excerpt, he highlights both the administrative and the protective aspects (for example, in the form of rights) in the functions of law. Elsewhere this has been expanded on somewhat by the use of the idea of "governing, regulating and promoting relations and interactions between state and non-state players in educational reform" (Pan and Law: 2006, p268).

Apart from restricting or protecting, Pan and Law mention other functions that law might involve including rectifying problems of a specific nature. Beckman (1997) contributes to the debate on the functions of law by looking at the nature, function and characteristics of

a legal framework in the education sector. For the purpose of the article he acknowledges the “Dworkinian tenet ... that we live in and by the law” as “an apt way of summarizing the two major functions of a legal framework”. This he describes as “to enable” (legitimating function) and “to limit or describe or define” (defining function which if naming, also includes the nominal function) (ibid, p125). He implies that its nature is to “ ... provide for order, clarity, security and stability ...” (ibid, p125).

Classical positivism has the implication that a law serves the function of achieving a concrete objective (proactive function) which might include, for example, setting up an accountability approach for accreditation of educational qualifications. This objective would be the will of those in power and would expedite policies by attaching sanctions, which in some understandings at least, could be positive (inciting function) or negative ones (punitive function). Hart’s modified positivism (McCoubrey and White: 1999, p56), while relying on rules (a procedural function), does recognize the need for what is regarded as a minimum content of natural law to allow for what are called truisms to be expressed.

Among the five truisms suggested by Hart are “approximate equality”, “limited altruism”, and “limited resources” (resourcing function). These, while acknowledging that society may contain different capacities among its people, imply among other things, that a “system of mutual forbearance and compromise which is the base of both legal and moral obligation” is required. These, which should be contained within the legal rules, implicitly establish a function around societal stability (ibid). Within Hart’s theory there

seems to be an overemphasis on the idea of obedience to the law. As a result this would suggest a less important position within this theory for facilitative law (facilitative function) within education that might, to illustrate, set up appropriate bodies like the National Council for Curriculum and Assessment (NCCA) in Ireland, albeit that his theory can be related to this type of law. Setting up bodies like the NCCA also demonstrates the institutional function of law.

McCoubrey and White (1999, p162) claim that at least some of Dworkin's ideas are based on the fact "that law is meant as a guide to human behaviour" (normative function). Dworkin's theory

> *... is designed to give special place to rights as 'trumps' over general utilitarian justifications throughout the legal process ... Rights, whether they be derived from legal rules, or from more general legal principles, protect individuals from political decisions, even if those decisions would improve collective goals ... The more entrenched or institutionalised a right is the less a government is able to enact legislation which undermines that right.* (ibid., p164)

The question then arises as to whether the opposite is also true. It is worth considering whether a government should be prepared to enact legislation if it can be shown that an institutionalized right is not being properly protected. Dworkin was conscious of the fact that the legislature embodies policy and enacts statutes with a view to achieving policy goals (which has a thematic function in that it allows discussion to progress). It would seem that policy, in his opinion, in this instance need not force the abandonment of the good principle of expressing rights and furthering the attainment of these. This encapsulates aspects of Dworkin's anti-utilitarian theory of democracy or the principle of equal concern and respect (ibid., p173). Marketisation in the education sectors and how it

alienates some from participation could be discussed in this theory of the individual concerns against those of the collective.

In the naturalist tradition, Greek philosophers like Plato have been said to think of laws as persuading (persuasive function) as much as compelling (prescriptive function). Other Greek philosophers like Aristotle, proffered a teleological argument:

> *Aristotelian teleology teaches that all things have a potential for development specific to their nature, the achievement of which is its particular 'good'... A 'good' law is then one which enables its subjects, as social creatures, to achieve their maximum potential appropriate development* ... (McCoubrey and White: 1999, p67)

Some social-contractarian thought, also in the naturalist tradition (although secularized to an extent, at least when compared with Saint Thomas Aquinas' influential theories), implies that law is attempting to balance the rights of individuals against the collective rights (balancing function). The difficulty with any law, is trying to do this while also allowing individuals to reach their true potential, if it places a predominance of interest on the collective through a dominant ideology. This may appear balanced in theory but may be manipulated in practice.

Finnis, a more modern naturalist, in his theory of natural rights, essentially sees law as playing a part in satisfying the achievement of the "basic forms of human flourishing" (Harris: 1997, p15) for people in society. Among those basic goods is knowledge. Although Finnis would not have the basic goods isolated, each is of equal importance, far from taking a spotlight from knowledge, other basic goods like life and achieving potential only serve to strengthen the importance of knowledge as part of a structure.

Finnis' " 'basic methodological requirements' of practical reasonableness" (ibid) which are the means of evaluating the correct way of realizing the basic forms of human flourishing, include that there should be "no arbitrary preferences amongst persons" and therefore laws that lead either directly or indirectly (functional function) to discrimination, may need change or counterbalancing to avoid or alleviate problems like socio-economic disadvantage. Human Rights said to come directly from the basic forms of human flourishing include "to be accorded 'respectful consideration' in any assessment of the common good" (McCoubrey and White: 1999, p99). Genuine attempts to alleviate problems like socio-economic disadvantage, need more than token efforts if *respectful consideration* is to be attained. Beyleveld and Brownsword (ibid., p103) maintain that law is an attempt to regulate problems of social order by using rules. In reference to an *ideal typical* reminiscent of Weber's terminology:

> *The argument is then advanced that there exists an 'ideal typical' model of social order, which provides an evaluatory standard for the assessment of the actual operation of law.* (ibid., p103)

The economic analysis of law gives yet another interpretation of the function of law. The outcome it mainly relates to is that of efficiency (efficient function). Variations on this theme have allowed ideas of justice and distribution of income and wealth to be intertwined with efficiency but essentially involve the law enabling the distribution.

At this juncture, having considered some key legislative practice perspectives on the functions of law, a consideration of legislation in education and the connection with culture will be considered. The functions that have been discussed in this section are

outlined in greater detail in appendix 1 and will be put into perspective in terms of the methodology in the following chapter.

5 LEGISLATION IN EDUCATION

> *Since the 1980s reliance on statutory and designated legislation to affect educational reform has become an international trend. In particular, the participation of non-state actors in both educational reform and social transformation has provided an opportunity to readjust the relationship between state and non-state actors in education, and legislation is often used to mandate and enforce the readjustment in specific contexts.*
> (Pan and Law: 2006, p267)

Here, Pan and Law (2006) acknowledge what they see as an international trend, where legislation has been used for decades as a "readjustment" tool. Thomas (1990, p7) has argued that the educational legislation used by countries can act as a mirror of maturity. In doing this he engages 6 dimensions of educational maturity which include (ibid., pp8-11) comprehensiveness that relates to the range of recipients and educational providers that are brought in under the legislation; equity that refers to the idea that the members of a given society would be granted an equally fair chance of appropriate education but would take account of aspects such as inherited ability and social background for differentiation of opportunities; balance of control that concerns the empowering of appropriate officials to guide the education system in the required direction. It also deals with the extent to which the social partners are empowered.

Although aimed at Indonesia in the article, the dimensions have general potential. From an FE perspective in Irish society, the question arises as to whether the involvement of legislation will aid the educational maturity of the sector. In the perceived logic of Pan

and Law (2006), there would appear to be the assumption that law can be used for social engineering, whereas Thomas (1990) seems to see legislation as a product of society's evolution. In an early article, Falk Moore (1973) cautions that looking at the semi-autonomous social field may highlight inadequacies in the former assumption. Culture is highlighted as a possible filter to the functionality of legislation where the prescriptive function (removal of choice or preference) is not the driving force. The semi-autonomous social field, which could include the disadvantaged, is one that:

> *... can generate rules and customs and symbols internally, but ... is also vulnerable to rules and decisions and other forces emanating from the larger world by which it is surrounded.* (ibid., p720)

With respect to the law she points to the fact that the universality so readily claimed for the law often falls short of reality:

> *... although universality of application is often used as one of the basic elements in any definition of law, universality is often a myth. Most rules of law, in fact, though theoretically universal in application, affect only a limited category of persons in a limited number of situations ... There is a general utility in looking at legal rules in terms of the semi-autonomous social fields on which they impinge. It tempers any tendency to exaggerate the potential effectiveness of legislation as an instrument of social engineering, while demonstrating when and how and through what processes it actually is effective.* (ibid., p734 and 742)

This highlights the complexities of achieving the objectives of law. It alludes to the fact that legislative aspects may require sanctions or rewards, in addition to having relevance to a given aspect of the social field itself such as education, as well as society in general.

6 LAW AND CULTURE: PARADIGMS IN EDUCATION

The concept of policy paradigm is used as an analytical tool in the study of education systems. It will be used, for example, in the jurisdictional chapters later to critically analyse and describe educational policy and cultural politics. It essentially allows for different perspectives to be used for looking at educational phenomena (Drudy and Lynch: 1993, p64). Policy paradigms have been described by O' Sullivan (1993, p247) as "frameworks that govern the policy process". He explains that:

> *Policy paradigms can assume an ideological status that makes them difficult to effectively question or challenge and their hegemonic force can be such that they are considered to coincide with the limits of normality and common sense* (ibid, p248).

He further explains that a policy paradigm as an analytical construct, "makes no special claims on what is true, real, or valid" (ibid., p252). In elaborating on the idea of policy paradigm, he tries to ensure, although acknowledging the similarity of treatment with that of ideology, that there is no confusion with the use of the term ideology.

The legislative paradigm for furthering educational policy has been used as a framework in many countries. The use of legislation may enable more definitive control and also serve to establish firm boundaries on a commitment to given strategies. This use may be seen to move the understanding of paradigm from an understanding of *what* influences educational thought to encompass simultaneously *how* educational problems are theorized and tackled. In the consideration from a comparative stance of some aspects of influence of culture on legislation and vice versa, and for FE's capacity for aiding with employability for the 16-24 year old age cohort, the dominant ideological stances and paradigmatic environments will be critically analysed with *participation*, *accountability*

and the *public/private good debate on human capital* being utilized in the search for comparative insights for Ireland.

7 CONCLUSION

In writing about the emergence of State educational systems, Archer (1979) mentions the limited group interactions:

> *... the interaction of dominant and assertive groups was held to be the 'guidance mechanism' responsible for repatterning the relationship between education and society and transforming the internal structure of education itself.* (Archer: 1979, p217)

For subsequent change in the system, she goes on to write about the increase in group numbers and how the original interactions are replaced by different ones. The interaction of dominant and assertive groups is similar to a portrayal of ideological considerations. Archer's consideration of increasing group numbers and the influence of such on subsequent change will be a relevant theme in the assessment of the programmes led by ideological stances and their subsequent impact and it remains to be considered if the maturity of the system is sufficient to take relevant group interaction in a development of Irish FE for employability.

The comparative policy analysis of the relevant key employability interventions in this thesis is carried forward with recognition of cultural and legislative perspectives. In the previous chapter cognizance was taken of the cultural perspectives and this present chapter set about taking cognizance of the legislative perspectives. However, the legislative milieu is immersed in cultural influences and to allow a critical policy analysis

of culture and legislation, a time and location specific analysis had to be considered. This arises because different environments and different eras provide diverse analytical products and the research informed by genealogy is meant to elucidate this reality. The use of the functions of law as derived from the foregoing analysis is meant to achieve a set of discussion points for the critical policy analysis as opposed to straightforward positivist criteria (which might assume very specific or measurable properties). The use of these functions from a critical theory standpoint will integrate my own position as researcher into the analysis. Nonetheless, the literature provides some strength for the use of these functions. This, while arguably putting a positivist leaning to the functions in terms of the meaning within, is nonetheless perceived in a critical analysis somewhat like what Fairclough (2005, p1) describes as a "realist social ontology" which is discussed in more detail in the next chapter. This interprets a 'realism' mediated by 'social' activity, including my own social background, in the utilization of the functions of law in this study.

It is because of, inter alia, the opinion that legislation is considered inefficient by some because of the compromises between interest groups and the difference often experienced between the actuality of effects as opposed to intended effects, that the legislative interactions between the dominant ideology and the less dominant is worth investigating as an antagonism of strategies (Foucault, 1982). It is also because of the considered opinion that legislative inflation may be needed to stop a laissez-faire position, which would very likely favour the more powerful, that legislation is worth investigating despite Marxist opinion that the law as an instrumentality of the state expresses the will of the

ruling class (Harris, 1997). The next chapter on methodology clarifies this chapter's position further.

CHAPTER SIX

METHODOLOGY

1 INTRODUCTION

The research methodology is described in this chapter. The methodology facilitates a comparative study of three jurisdictions. These jurisdictions are England, the United States (US) and the European Union (EU). They were chosen to reflect a sovereign state, a federal state system and a group of states working in union and exhibiting some similarities to a federal state (supranational). As the language of communication is English (England and US) or is an official language (EU), it was easier to find the documents and legislation necessary to complete the study. Moreover, each of the jurisdictions is parliament based when it comes to governance which is more conducive to a comparative study (comparing like with like as far as possible).

I chose the 16-24 year old age cohort for three reasons. Firstly, this cohort covers an age at one extreme (16 years old) which is the minimum school leaving age in Ireland according to the *Education (Welfare) Act, 2000* (after having completed three years of post-primary education). The age at the other extreme is taken as the limit of those classed as youth or a young person *(Youth Work Act, 2001)*. Secondly, the youth sector is regularly mentioned in statistics as more severely affected by unemployment than other categories. To recap from an earlier part of the thesis, it is worth remembering that the youth unemployment rate was more than twice the overall rate in the 27 states of the EU (as was) in 2012. This position was echoed in Ireland with 30.4% for the under 25 year olds as against 12.9% for those 25 years old and over as reported by Eurostat[42].This

[42]http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Unemployment_statistics#Youth_unemployment_trends

factor plays a large part in the renewing of a cycle of economic disadvantage. Thirdly, this age cohort is the most likely, potentially at least, to progress to FE because of the fact that they are at the start of their working lives. This potential may not be achieved, however, which could lead to social as well as economic and educational disadvantage.

In section two, some theoretical considerations behind the research paradigm are considered. Section three discusses the overall methodological approach. Section four delves deeper into the research methodology and discusses the methods used. In section five the research format is discussed and gives research aims and questions. This is followed in section six by some limitations associated with the research.

2 RESEARCH PARADIGM: THEORETICAL FRAMEWORK

Guba and Lincoln (1994) outline some of the competing paradigms in research. These include positivism, postpositivism and critical theory. They do this while trying to separate the concept of paradigm from the concept of methodology without neglecting to mention the latter in the discussion of paradigms. This present chapter, inter alia, is meant to delineate aspects of critical policy analysis in an education setting from a methodological perspective where the research has a comparative basis. Establishing a context in the research field engages a historical method similar to Foucault's (1984) genealogy for this particular purpose. The methodology and methods used are complementary and serve to carry out the research in a particular manner which is summarised by O'Brien (2001, p155) when he says that

> *researchers tend towards the position of not only being interested in 'what is going on and why, but also in doing something about it'. This emphasis*

> *on a transformative dimension to research need not be as concrete as suggesting alternative solutions to problems. Instead, the principal aim of critical research is to encourage 'practical reflective activity' or 'praxis'. This form of reflective activity (which, as a researcher, also involves … engaging with a critical-dialectical analysis of theory and results) thus "allows us to refine social theory rather than merely to describe social life"*

Mertens (2007, p213) explains that the transformative dimension or what she calls the transformative paradigm has as a central tenet that "power is an issue that must be addressed at each stage of the research process". This power in the present author's case will be manifested in understandings and meanings attached to the discussion. This is a necessary acknowledgement of the social, political and cultural history of any researcher. The challenge is to minimize the destructive power embedded in any knowledge incongruities to enable productive comparative insights. This is not meant to overcome the knowledge/power base inherent in this researcher but the fact that I have worked in a school which served secondary and post-secondary disadvantaged students gives some level of cognizance of my own relatively privileged educational position. While acknowledgement is given here to the fact that the topics I have sought to discuss may encourage discourse, the use of manipulative discourse to suit the dominant ideology is not what is aspired to. Quite the contrary, the reflexive action being undertaken in the research is meant to encourage the democratization of the education process in so far as it aids the combating of educational disadvantage. The increase of participation in a just society as opposed to the necessary erasure of social class structures is a platform used for critical analysis in the study.

Although critical theory is used as a "blanket term" by Guba and Lincoln to encompass "several alternative paradigms" (ibid., p109), they do highlight its distance as a paradigm from the positivist tradition of research. They imply from their discussion that some of those alternative paradigms outside of the positivist tradition have developed as a response to the growing dissatisfaction with quantitative methods, at least when the latter are used on their own. Moreover, Guba and Lincoln's (1994) discussion can be extended to a perceived increase in interest in qualitative methodologies.

While outlining the extremes of positivism and anti-positivism, Cohen and Manion (1994) draw attention to the former's emphasis on predominantly quantitative methods and the latter's on predominantly qualitative methods. Notwithstanding, Lieberman (2005, p436 and p451) sees the possibility of combining both qualitative and quantitative methods in cross national research. This he explains can be done using what he refers to as nested analysis. This method is recommended by Lieberman as a "mixed-method strategy for comparative research", a field of study within which such mixed-methods have, he states, been repeatedly called for. Also, it is the lack of necessity to find general laws from the present research that enables the argument to be stated in favour of a leaning towards an idiographic approach. This has, within its boundaries, a predilection towards an understanding of "critique and transformation" (Guba and Lincoln: 1994, p113) of the problems and solutions of the societies under study.

The basis of the thesis is an analysis of three jurisdictions from some key legislative and cultural practice perspectives with a view to finding some comparative insights for

Ireland. These insights are meant to consider good practice for possible *policy borrowing* or *policy transfer* (See Dale, 1999), cautionary tales where observed policy and practice has led to dubious results, or policy to be avoided. FE and key employability interventions within that sector for the 16-24 year old age cohort define the direction of analysis. The study is structured on a critical comparative policy analysis and the research is progressed with a historical/genealogical method to establish the context of each jurisdiction and by the use of critical policy analysis with appropriate use of critical discourse analysis. The use of critical discourse analysis has been described as a "theory and method that draws on the dialogic relationship between texts and social practices" (Patel Stevens: 2004, p207). Concepts such as paradigmatic change play a part in the analysis of ideology and draw together aspects of legislative and cultural practice perspectives. The use of a conceptual framework that describes facets of the legislative function is utilised to critique aspects within the jurisdictions and establish a metalanguage for the reader. This metalanguage allows the reader to follow aspects of the critique by creating a common understanding of the terms used.

The rationale for the study originates from a set of observations from my own experience as a teacher. The observations seemed to suggest that some former students, from what might be considered as a socio-economically disadvantaged background, were gaining a benefit from FE. In particular, these students had achieved results in senior cycle examinations that were not encouraging them to proceed to Higher Education. The employment prospects were limited which became clear when cultural hiring practices of employers were considered. This was influenced by both junior and senior cycle

examination results. Having made this point about my observations, it becomes clear that this idea came from a subjective viewpoint and was open to other interpretations as to whether FE was in fact an aid to employability. This was enveloped within the thesis which was initially aimed at examining this observation in other jurisdictions. As FE in the Irish context has only recently been placed specifically on a legislative basis, the practices of other jurisdictions and a comparative investigation becomes more relevant in this regard. However, cultural practices relevant to employability were also examined, as jurisdictions have different historical, cultural, political, economic and social contexts.

3 METHODOLOGICAL APPROACH

In the treatment of the topic of the study (a policy analysis of key employability interventions for the 16-24 year old age cohort in further education from some key legislative and cultural practice perspectives) and in seeking some comparative insights for Ireland, the investigation brought together the theory and epistemology of critical theory. A theoretical treatise of certain aspects of educational disadvantage and FE, along with legislative and cultural practices was also undertaken with this critical theory. What emerged from the theoretical meeting points was an empirical focus on participation, accountability and human capital issues that are deemed relevant in the present study to the education/employability/economy link. This focus formed the basis of the jurisdictional analysis as a critical comparative methodology.

The comparative nature of the enquiry needed to focus on the same aspects from each jurisdiction so as to compare like with like, a concept that will be developed presently. If

this focus represented the key cultural perspectives, the intersection with the legislative perspectives for comparative purposes was carried forward through the use of primary, secondary and supplementary law. For example, in the case of the United States, both federal and state law was utilised and in the case of the European Union, the analysis made use of regulations, directives, decisions, recommendations, opinions and case law. Written documents (such as reports) from many sources were inspected. These documents allowed a conduit of understanding between the legislation and cultural perspectives. The following describes the methodology in more detail.

3.1 A COMPARATIVE POLICY ANALYSIS: COMPARING LIKE WITH LIKE?

The following section elaborates on the research methodology. Hantrais (1999) explains that

> *The many definitions of cross-national comparative research in the social sciences have in common their concern to observe social phenomena across nations, to develop robust explanations of similarities or differences, and to attempt to assess their consequences, whether it be for the purposes of testing theories, drawing lessons about best practice or, more straightforwardly, gaining a better understanding of how social processes operate.* (Hantrais: 1999, p93)

Grek et al (2009) elaborate on this by implying that comparative measures can justify attempts by the government within nations to push for change directed from other sources such as the European Union (EU). This may serve for improvement of services but may also allow for forms of comparison for the purposes of governance as mentioned above, which in turn serves to aid a competition mentality (ibid., p10) in, for example, a neoliberal ideology. In fact this competitive ideology ties into a globalised agenda as

opposed to being, for example, EU only based. Commensurability (or equivalence) is relevant for proper comparison (ibid., p10). This will be discussed presently.

A comparative approach that searches for *policy borrowing* or *policy transfer* (See Dale, 1999) possibilities has also to allow for the fact that what is being compared is not necessarily free from controversy. To illustrate, not all in the academic literature take the pursuit of learning within the education system for human capital purposes as being a settled issue (Kellaghan and Lewis, 1991; Coffield, 1999). Although the title of this thesis may have or may be perceived to have an assumption implied that FE can counteract employability problems, this is because a lot of state governance has formed the opinion that this is so. Education, training and learning programmes are suggested, in much of the employment academic literature, to be positively related to employability (Finegold, 1992; Verhaar and Smulders, 1999; Gore, 2005; McQuaid, Green and Danson, 2005; Theodore, 2007). This should not be taken to reflect the fact that I, as researcher, am making this assumption and this research is in effect to look to see if other jurisdictions have shown this to be so as opposed to assuming such. The challenge is to find how it has been used positively if it has been shown to be affirmed. The use of a critical comparative policy analysis methodology to the research demands a critical analysis of the employability programmes and, primarily, the education/employability/economy link.

In terms of methodology, in a similar composite to the transdisciplinary way “through dialogue with other disciplines and theories which are addressing contemporary processes of social change” utilised by Fairclough (2005, p1), a combined approach, as used by

Finegold (1992), is relevant to comparative research. Finegold (1992, p57) while writing about the "relationship between education and training (ET) and economic organisation and performance" brings some traditional approaches used to investigate this relationship under closer scrutiny. He highlights a suggestion that even if an education/training programme is affirmed to be productive in employability terms in one jurisdiction, it does not mean that it will transfer to another jurisdiction. This is an interesting point when the genealogical method (Foucault, 1984, and will be described later) being drawn from to progress this study, is considered. If non-transferable, a programme could be said to exhibit an example of a "singularity of events … demonstrating that there is no ideal continuity or natural process" (Meadmore, Hatcher and Mcwilliam: 2000, p465), an aspect proffered by a genealogical analysis "first and foremost" (ibid.). While accepting that cultural factors can also lead to the need for care in policy transfer, the challenge again in critical analysis is to assess the programmes with this in mind.

Finegold (1992) attempts just such a project. The traditional approaches considered by Finegold include the neo-classical economics approach and the institutional analysis approach. The former looks at aspects like human capital theory and ET as an investment while the latter considers "detailed description and historical analysis of the provision of education and training and the organisation of the economy" (Ibid., p59). While highlighting deficiencies in both approaches, he goes on to draw somewhat from both in an attempt to get a more productive comparative approach. In an investigation of the older worker, Ainsworth and Hardy (2004, p243) also refer to a combined approach which uses critical discourse analysis (CDA) and institutional theory. CDA and an

institutional analysis serve to see how orders of discourse or different ways of making meaning (which will be discussed in more detail below) can lead to dominant understandings.

Jowell (1998, p168) points to the usefulness of cross-national investigations as they draw attention not only to what other countries are doing but also to "aspects of one's own country and culture that would be difficult or impossible to detect from domestic data alone". However, he points to the lack of homogeneity of "vocabulary, modes of expression, levels of education" and the like (ibid., p169). This was alleviated to some extent in the present thesis as follows. The concept of FE and the differences in vocabulary in jurisdictions was dealt with by coming up with a definition of FE in chapter two. A neoliberal ideology in all three comparative jurisdictions coincided with a similar trend in Ireland to enhance further what Jowell calls a principle of equivalence or a like with like comparison. Hantrais (1999, p94 and p104) warns of the primacy of context for the principle of equivalence, not so much as a hindrance so as to invalidate cross-national comparative research, but as "an important explanatory variable and an enabling tool". Contextualisation becomes relevant but by doing so also enables a recontextualisation where some texts can "become distanced from the circumstances of their production" (Ainsworth and Hardy: 2004, p243). The latter may lead to a misinterpretation of contextualisation (or related original meanings) but nonetheless may have influence in discourse and is a feature of *policy borrowing* or *transfer* that must be considered due to cultural differences.

Notwithstanding, a consolidation of the principle of equivalence was seen in the general understanding of right and left side politics in this thesis. The concept of disadvantage, whether considered from a socio-economic or educational perspective, is comparable (for example, in terms of how it is manifested) within the academic literature from the US, England, Ireland and the EU also. Likewise, by specifying the 16-24 year old age cohort, definitions that might be confusing from cultural viewpoints, such as adult, youth and the like, are avoided. The same periodic time spans were also considered from each jurisdiction. As Jowell (1998) has alluded to, the use of any data from different time spans without the background being considered, can be misleading. Therefore, the recognition that historical, cultural, political, economic and social influences exist and the acknowledgement that there is a need to critically analyse aspects of *policy transfer* affected by such serves to strengthen the principle of equivalence needed in comparative studies. Moreover, equivalence is strengthened further by the fact that the legal basis in the jurisdictions under study is predominantly common law (based on precedent) or is based on a system of which Ireland is a member (EU). At this point we turn to the methods used to progress the study.

4 RESEARCH METHODS

4.1 GENEALOGICALLY INFORMED ANALYSIS

Foucault (1984, p78 and p80) states that

> *genealogical analysis shows that the concept of liberty is an "invention of the ruling classes" and not fundamental to man's nature … A genealogy of values … and knowledge will never confuse itself with a quest for their "origins" … On the contrary, it will cultivate the details and accidents that accompany every beginning.*

Here Foucault establishes the reality of social stratification. He also claims that there is no origin as such to any situation in society. By using genealogy as a form of historical analysis, he searches not for *the beginning* but for *a beginning* that was possible in a given context. He announces that other situations were possible if different circumstances prevailed. In the present study, a process akin to the genealogical method is used to establish not only what happened but why. There is an attempt to engage with the various possibilities for the future. Kendall and Wickham (1999, p4) say that "Foucaultian method's use of history is not a turn to teleology, that is, it does not involve assumptions of progress (or regress)". There is a demonstration of how history is used to diagnose the present rather than explaining "how the present has emerged from the past" (ibid.).

Although Meadmore, Hatcher and Mcwilliam (2000, p463) tell us that there is no blueprint for genealogical use, they do provide a description as the "union of erudite knowledge and local memories which allows us to establish a historical knowledge of struggles and to make use of this knowledge tactically today". Essentially genealogy serves as a "critical tool" (Tamboukou: 1999, p202). Genealogy as a method has been premised on the belief that

> *our present is not theorised as the result of a meaningful development, but rather as an episode, a result of struggle and relations of force and domination. Genealogy is the history of such fights, their deep strategies, and the ways that interconnect them. Foucault has argued that within relations of power, individuals and groups can find space to resist domination, exercise freedom and pursue their interests … The aim is to provide a counter-memory that will help subjects recreate the historical and practical conditions of their present existence. This is the future to which genealogies aspire* (Tamboukou: 1999, p203)

Tamboukou tells us that "Foucault conceives of genealogy as an analysis of *descent* and *emergence*" (1999, p208). Foucault (1984, p79) portrays descent as a more dynamic form of origin. He says that "what is found at the historical beginning of things is not the inviolable identity of their origin; it is the dissension of other things. It is disparity" (ibid.). Emergence, on the other hand, is described as "always produced through a particular stage of forces. The analysis … must delineate this interaction, the struggle these forces wage against each other or against adverse circumstances" (Ibid., pp83-84). As Hook (2005, p19) explains, "we should operationalize the principle of emergence in opposition to the logic of culmination". We see that Foucault's genealogical approach processes an event (for example, the education/employability link) from a dynamic perspective, from descent through emergence, and the challenge is to look at the power struggles at the core of the understanding of that event in a given context.

4.2 CRITICAL POLICY ANALYSIS/CRITICAL DISCOURSE ANALYSIS (CDA)

Taylor (1997) adds to the contextualisation necessary in a comparative methodology by emphasising the same aspects in theories of discourse. She outlines how language and meaning must be taken in context, a reality that is manifested by aspects of power, knowledge and ideology. Ainsworth and Hardy (2004, p236) state that "simply put, CDA involves the use of discourse analytic techniques, combined with a critical perspective, to interrogate social phenomena". Whereas this seems to state the obvious they continue that "it builds on cultural studies insofar as it draws on social constructionist assumptions … and also provides a critical framework with which to explore material effects". This explains more clearly that, while accepting society's constructionist tendencies, or the

ability of societal social interaction to influence individuals (ibid., p232), CDA nonetheless allows the exploration of material effects so as to critically appraise where changes can be made. Interrogating social phenomena without a possibility for change would appear fruitless. In searching for the material to critique, Ainsworth and Hardy (2004, p236) continue that:

> *Discourse is inaccessible in its entirety, but traces of it are found in the texts that help to constitute it. While discourses are realized through texts, they are much broader than texts and include the broader social and cultural structure and practices that surround and inform their production and consumption.*

The analysis of texts in interdiscursive analysis, which will be described presently, manifests the use of the phrase text in, what Fairclough (2005, pp2-3) describes as, an "extended way". This extended way includes "written documents and websites of government". The use of legislative statutes, government reports, and the like is inspected along with the "broader social and cultural structure and practices" as described by Ainsworth and Hardy (2004, p236). To complement aspects outlined for critical discourse analysis, the use of a metalanguage for the functions of law will also be described later.

Fairclough (2005, p1) identifies critical discourse analysis (CDA) as that which

> *subsumes a variety of approaches towards the social analysis of discourse which differ in theory, methodology, and the type of research issues to which they tend to give prominence.*

He says the manner in which he uses CDA is characterized by a "realist social ontology" as it "regards both abstract social structures and concrete social events as parts of social reality" (ibid., p1). According to Fairclough, the relationship between social structures

(such as language) and social events (such as texts) is mediated by social practices which are forms of social activity and these practices "are articulated together to constitute social fields, institutions, and organizations" (ibid., p2 and p3). Fairclough also uses the term order of discourse to expand on these practices and describes order of discourse as "a specific articulation of diverse genres and discourses and styles" (see below) and "a particular social ordering of relationships amongst different ways of making meaning". Since ordering relates to the dominance of making meaning, it becomes clear how ideology and dominant cultures become part of the analysis.

The aforementioned genres (types of social activity, such as, meetings) and styles (ways of being, such as the manner of operation of those in power) can be influential on discourses (diverse representations of social life, such as that depicting the position of the socially excluded) (Fairclough: 2005, p4). Interdiscursive analysis allows the investigation of how these three influence instances of social life relevant to this present research. This analysis is "a central and distinctive feature" (ibid., p5) of Fairclough's CDA. It allows context to be considered in the debate. As critical discourse analysis suggests, discourse is the dominant aspect of the trio of genre, style and discourse. Fairclough describes how discourses "include representations of how things are and have been, as well as imaginaries – representations of how things might or could or should be" (ibid., p6). To operationalize these imaginaries so as to inculcate the discourses relevant to same into an operating society, the use of a successful strategy is necessary. The use of nodal discourses such as a knowledge-based economy is one such possible strategy. The nodal discourse is a discourse that will "subsume and articulate in a particular way a great

many other discourses" (ibid., p10) such as those on participation, accountability and human capital in the critical engagement with the education/employability link.

In the jurisdictions under study, the use of condensation symbols (examples might include inclusion, justice, equality of condition, participation) which are "designed to create symbolic stereotypes and metaphors which reassure supporters that their interests have been considered" (Troyna: 1994, p73) do not necessarily mean that the concept under discussion such as disadvantage, FE, participation, accountability or human capital are being dealt with by government adequately to ameliorate a given position on inclusion. In fact the recontextualisation of issues of disadvantage in the movement from one aspect of a culture (less dominant) to another (more dominant) may mean that the perceived problem being solved is even misunderstood. This can be exacerbated by filtering issues which may allow some level of local interpretation of texts (Troyna: 1994, p75; Dale, 1999). Cultural practices may allow the distortion or recontextualisation of aspects of policy due to different interpretive contexts. Some of these aspects of policy may be represented in legislation. The designation of functions within this legislation and subsequent enactment can serve as a cultural practice in and of itself. This is why the function of law is inherent and taken into account alongside the cultural practice perspectives in the present thesis. To complement aspects already outlined for critical discourse analysis, a metalanguage for the functions of law will also be utilised.

4.3 FUNCTIONS OF LAW: METALANGUAGE: CONCEPTUAL FRAMEWORK

Having looked at aspects of the functions of law that various theorists have proposed over time in chapter five and having suggested a link with education and culture, a conceptual framework for the functions of law in the specific area of education of interest to this thesis is put forward. The schematic below (fig 1) outlines the format in graphic form. Reading from the bottom, it is broken into four function types which are implementation (first 3 lines), enforcement (lines 4-6), impact (lines 7 and 8) and compliance (lines 9-11). The types are purely descriptive but the substantive use within the study focuses on the meaning of each function to build a set of discussion points in the critical analysis. The functions are primarily dealt with on a non-hierarchical level although some could be argued to be stronger in their legislative influence than others as will be seen in the jurisdictional (part four) and analysis (part five) sections of the thesis. As previously alluded to, the discussion in this study encompasses, inter alia, something similar to Fairclough's (2005) "realist social ontology" and allows the functions of law to become an integral part of the critical discourse analysis. Thus, the interdiscursive analysis will involve a legislative and cultural base in a discussion of the socially mediated practices that are possible within society.

In any area of law there needs to be an understanding of the topic to be legislated for. The substantive area under consideration needs to take account of the various aspects that will influence the possibilities. In Irish education this might include the centralized nature of the system, the fact that interest groups and the Catholic Church have played a substantial part, the Constitution of the Irish Republic and membership of the European Union. Due

to the nature of the discussion, only some of the functions outlined in the schematic will be used and discussed in depth or explained. All of the functions are outlined in detail in appendix 1. A brief outline of each function was given in chapter five in table 1.

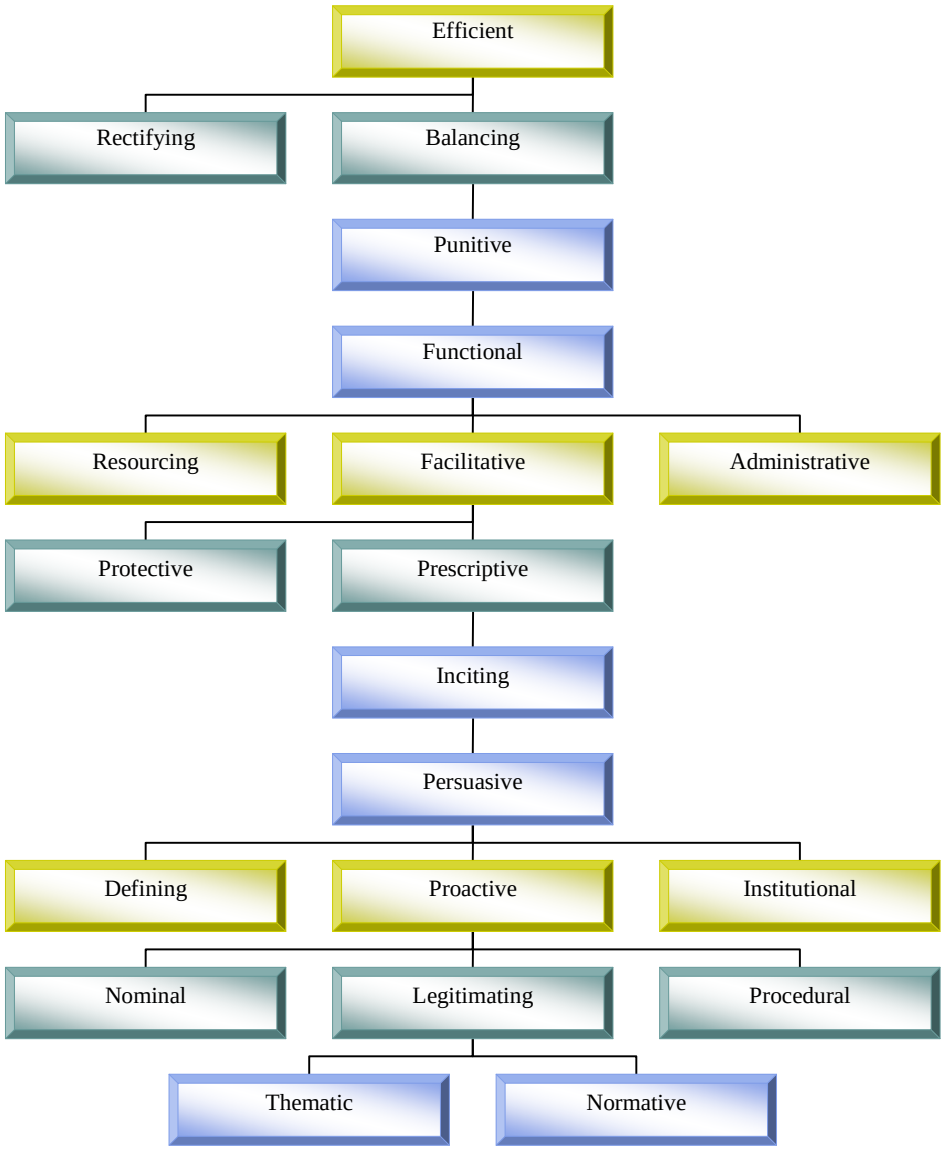


Fig 1 (reading upwards the function types are)

Lines 1-3 Implementation Lines 4-6 Enforcement Lines 7 and 8 Impact Lines 9-11 Compliance

5 RESEARCH AIMS AND QUESTIONS

The research methodology takes its lead from the main research aim which is, to procure comparative insights from some key legislative and cultural practice perspectives for Ireland, from a comparative policy analysis of key employability interventions for the 16-24 year old age cohort in further education. Subsidiary research aims or sub-aims were identified from the theoretical considerations in chapters two-five to enhance the research targeting the main aim. As previously alluded to, participation extends beyond student activity and extends to social relations generally. Therefore the main aim is substantiated in this regard with a sub-aim that investigates both pre (before) and post (during) employment aspects. Similarly the fact that the thesis extends accountability beyond performance measures alone, while also acknowledging these, examines aspects of equality of condition. Human capital is analysed from a public/private good perspective to take note of the collective/individual differences within an educational culture. These sub-aims essentially give rise to the questions that follow within the study. While setting out to investigate the ideological context (Taylor, 1997), the education/training programmes and the impact of same (Troyna, 1994), these research sub-aims set out to

Sub-aim 1	investigate participation issues both pre (before) and post (during) employment
Sub-aim 2	(a) examine accountability from an equality of condition standpoint
	(b) investigate accountability issues from a qualification standards viewpoint

Sub-aim 3	(a) investigate human capital from public/private good perspectives (b) investigate the assumption that human capital acquisition is always positive towards employability

While keeping in mind that the genealogically informed method used is not teleological and does not assign only one possible beginning to a given situation, it is the critical policy analysis and the critical analysis of discourse used in conjunction with that genealogically informed method that enables the research aim and sub-aims to be used as critical search tools to engage with the inherent power struggles. In operationalizing the aim and sub-aims, the following investigating questions were raised.

Question 1 ----------	Participation issues What social movement mechanisms, if any, work towards improving participation issues? (Sub-aim 1) For example, is there a place for learning partnerships?
Sub-question	How could welfare-in-work practices influence participation issues? (Sub-aim 1)
Question 2 ----------	Accountability issues (a) What have other jurisdictions done in terms of legislating for FE? (Sub-aim 2)
Sub-question	How do accreditation systems influence the educational policy agenda? (Sub-aim 2)

Question 3 --------- Human Capital issues

(a) How do supply/demand aspects influence the education/employment systems in terms of how to proceed towards employability? (Sub-aim 3)

The research aim and sub-aims and questions and sub-questions are used in an exploratory fashion to critically assess the descent and emergence (Foucault, 1984) of key employability interventions for the 16-24 year old age cohort in FE from some key legislative and cultural practice perspectives. The aims/sub-aims and questions/sub-questions, as critical search tools investigate where the education policy agenda evolves rather than comes from. There is also critical assessment of the power struggles within.

6 LIMITATIONS

Possible limitations can be claimed for this study. However, limitations need not necessarily be overcome to establish some comparative insights from the study. Nonetheless, limitations need to be acknowledged so as to adequately engage with the insights from the empirical section of the study. Firstly, the fact that there is a subjective basis to any analysis points to the claim of bias. Moreover, from a critical engagement standpoint, the fact that methodology, methods and arguments are fuelled from the literature, and even more so in transdisciplinary research, points to a potential exacerbation of this. Bias could come from both the researcher (historical, social, economic background), and those writing in the literature due to the interpretation by the researcher. Be that as it may, the possibility of avoiding bias is arguably only a matter of

scale. For example, another side to this argument points to the fact that as the bias potential is so well recognised, value-laden judgements are more scrutinised. Moreover, as O'Brien (2001, p174) emphasises "a subjective/political commitment to research may actually enhance the pursuit of 'truth'". While the pursuit of truth in this study may not necessarily fit with the search for comparative insights, nonetheless the pursuit of objectivity while acknowledging subjectivity can serve the project well.

Secondly, the three jurisdictions used for comparison purposes are much bigger jurisdictions than Ireland and have cultural differences that may be argued to preclude *policy transfer* or *policy borrowing* (See Dale, 1999). Halpin and Troyna (1995, p308) are sceptical about cross-national *policy borrowing* anyway and suggest that *policy borrowing* may be more about "legitimation for other related policies" than about the use of any recognised successful policy in the country of origin. Presumably they would argue that borrowing ideas from a successful FE program in, for example the US, could allow for the justification/legitimation of ideas on the knowledge-economy, a post-welfare state or a globalised economy. While these ideas cannot be ignored, the fact that ideological similarities and related nodal discourses that bring concepts like neoliberalism, post-Fordism, a post-welfare state, globalisation, and a knowledge economy to the fore in different jurisdictions, cannot be ignored either. In any event, the genealogical analysis will engage with the descent and emergence of educational/training/employability policy to determine similarities and differences between jurisdictions in the search for comparative insights.

Thirdly, Ireland has not tended to use legislation in the education sector as a historical premise, particularly in the FE sector, whereas the other jurisdictions have much stronger legislative backgrounds in the education sector. If the rectifying (alterations considered after judging whether a statute *can* attain or whether it *is* attaining objectives) and balancing (rational discussion on distributive and social justice issues) functions of legislation have been used to fashion legislation for a particular jurisdiction, it may not transfer to the Irish education policy agenda in its most recent format. This is related to the *policy transfer* or *policy borrowing* issue mentioned above but refers to the intended use of legislation in a genuine *policy borrowing* or *transfer* manner as opposed to any attempt to legitimate other policies. If the rectifying and balancing functions have been engaged to enhance or improve the legislation in the country of origin, the genealogical method will endeavour to show the evolution of the legislation to indicate the most useful evolutionary stage from an Irish perspective. This is a case of where the process between descent and emergence (In the sense used by Foucault) may enlighten, most appropriately, the search for comparative insights. In more recent times, since the mid-1990s in particular, Ireland has used and discussed the further use of educational legislation. To illustrate, the *Universities Act, 1997,* the *Education Act, 1998,* and the *Education (Welfare) Act, 2000* are cases in point. Thus, the evolution of the experience of legislative use in the education agenda may be more conducive to cross-national insights in years to come.

Fourthly as mentioned earlier, since the study conforms to the nature of idiographic research, the insights are not necessarily meant to be generalizable. This does not mean

that there are no generalizable aspects. For example, if culture (for example, in terms of how an FE system is conducted) is taken as one of the main barriers which militate against *policy transfer*, if an aspect of policy is not culture based (for example, having been discussed in the Open Method of Coordination (OMC) it has achieved views on best practice), it could be easier to see possible *policy borrowing* with a view to *policy transfer*. Academic/vocational divide issues (see chapter seven), reauthorisation of legislation (see chapter eight) and general participation of interests groups (see chapter nine) may be used to illustrate possible policies of note here in terms of viable comparative insights.

7 CONCLUSION

Critical theory is the research paradigm in this study. The main research methodology takes its lead from the main research aim which is, to procure comparative insights from some key legislative and cultural practice perspectives for Ireland, from a comparative policy analysis of key employability interventions for the 16-24 year old age cohort in further education. Thus, the study is structured on a critical comparative policy analysis and the research is progressed with a historical/genealogical method to establish the context of each jurisdiction and by the use of critical policy analysis with appropriate use of critical discourse analysis. The use of a metalanguage facilitates the critical analysis of discourse. The study is transdisciplinary and has elements of a policy trajectory analysis to aid with the genealogical method by using ideological context as the lead section in each jurisdiction. This enables a tracing of policy from “inception, through implementation … to its outcomes and effects” (Ball et al: 1994, p2).

CHAPTER SEVEN

ENGLAND

1 INTRODUCTION

The following chapter will evaluate some key policy interventions on employability in England. The main focus is from the 1980s, although of necessity there will be reference to earlier decades. Overall, this will be done from a focused perspective which addresses the comparative insights for Ireland. The focus is on Further Education (FE) for the 16-24 year old age cohort. The evaluation will be tailored towards both legislative and cultural perspectives. It will do this by locating the concept of employability in a context that is influenced by some specific and generative terms, which will become clear as the analysis progresses. The fact that there is an investigation through time means that the analysis can be informed by the genealogical method and the descent and emergence of aspects of the discussion as described by Foucault (1984) are critically assessed to expand on the understanding of the power relations, relationships of communication and objectives capacities (Foucault, 1982) as they represent aspects of participation, accountability and human capital. The attempt to garner insights and potentially transformative ways of thinking is done by combining critical techniques to supplement the genealogically informed analysis which is carried forward from an ideological context perspective in the jurisdiction, followed by a look at relevant programmes before assessing their impact. The analysis will develop from the twin positions of critical inquiry into official FE policy, in England in this chapter, and a meta-analysis of the literature and the approach to relevant discourse by other academics. Wolf et al. (2006, p535) tell us that

> *during the last quarter of the 20th century the education policies of European and North American governments became increasingly directed towards immediate economic goals, especially in the post-compulsory, further and adult sectors.*

While some disappointing overall results on wage earning gain correlation were reported by Wolf et al (2006) for those increasing certified adult educational qualifications in the limited international data available (ibid., p552), there is a leaning towards the 25-64 year old age cohort in this discontent. This encourages an investigation not only into the English position for younger learners, but also into the North American and European positions due to the stated propensities of those governments as outlined by Wolf et al in the statement above. This will be followed up in the next two chapters on the United States and the European Union.

The analysis in this chapter on England will engage with aspects of a welfarist agenda in the 1960s and the diminution of such under New Right ideologies. This discourse will be aided by a comparison and contrasting of one use of Human Capital Theory in the early 1980s and another use of Human Capital Theory which was to emerge later under *New Growth Theory*. Human Capital has been described by the OECD (1999, p48) as "employment-enhancing knowledge, skills and competence" and has been claimed to represent the investment people make in themselves to intensify their economic productivity (Olaniyan and Okemakinde: 2008, p158). This, however, hides the fact that employers or the state can also invest in people.

A supply driven system was deemed the predominant one at the root of the efforts to make social and economic change possible up to the Leitch review of skills in 2006 when a demand-led system was seen as necessary. A supply driven system is described in the Leitch review of skills as "based on the Government asking employers to articulate their

needs and then planning supply to meet this" (Leitch Review: 2006, p49). In contrast, a demand-led system is one that tries to put the customer first whether it is a learner or employer (DIUS: 2007, p7), with training for work at the core. If some of these changes were based on New Right ideologies, there was also an influence from within the concept of managerialism, which according to Peters (1999, p6) can be classed as the same. New Right ideologies will be elaborated on within the chapter. Preston (2001, p2) describes managerialism as a "belief in a strategic approach. The belief is that by setting goals all of us will get to where we wish to be". Implied by O'Brien (2001, p84), the managerialism and the top-down approach involved in centralization is contrasted with the bottom-up approach of partnership and local cooperation in a demand-led ideology.

Haughton (1990) describes the difference between skills shortage and skills mismatch and in so doing, highlights possible points of friction that can be related to demand-led and supply driven systems respectively, when he says:

> *A skills shortage exists where there are no suitable people available to do a job, perhaps because of full employment or inadequate or inappropriate training. Skills mismatch is a much broader term, encompassing those situations where there are people potentially available with appropriate skills, but who are not used to fill the particular vacancies available.* (Haughton: 1990, p339)

Here he lays down the basis for claiming that the political will may not be there to tackle the difference leading to instances where those of the *wrong* class are not enabled to attain specific jobs.

1.1 PRELIMINARY CONTEXTUALIZATION

Some important cultural influences need to be highlighted initially before further framing of the ideological context of employability in England. The first is set against the change in economic circumstances from an era of mass production to what has been called Post-Fordism. Young (1993, p212) says that this is:

> *… a rather loose, albeit evocative, term which refers to the appearance of a collection of industrial innovations, such as flexible specialised production, new uses of information-based technologies, flatter management structures, and the new emphasis upon teamwork.*

Young wrote in the early 1990s about this in the context of the divided system of education in England. The academic and vocational division, he claims, amounts to divisive specialisation when flexible specialisation would be more appropriate. This he claims:

> *involves the combination of general purpose capital equipment and skilled, adaptable workers to produce a wide and changing range of semi-customised goods* (Young: 1993, p213)

This involves human capital which under New Growth Theory transformed into a more important entity throughout the 1990s.

A second important contextual development is the nature of change in policy partnership arrangements in England. The Leitch Review in the United Kingdom notes that:

> *The responsibility for delivering improvements in skills has always been shared between government, employers and individuals.*
> (Leitch: 2006, p47)

This would appear to signify a corporatist mechanism which Korpi (2006) describes as:

> … *institutional arrangements and practices in reaching settlements involving major interest groups … the outcome of the interaction cannot be predetermined.* (ibid, p82)

Whether a corporatist agenda always held in England is debatable, particularly when the private sector mode was employed with the Training and Enterprise Councils in the late 1980s. Notwithstanding, the Leitch Review goes on to say that:

> *The balance of responsibilities between the three has changed over time and has varied between centralised and local approaches, often supply-driven and switching between voluntarism and compulsion.*
> (Leitch: 2006, p47)

This description appears to demonstrate both a willingness to change and confusion about strategy at the same time. It also brings into question what type of deliberation is involved between interest groups. Lister (2006, p456) describes how New Labour's Third Way method of governance was said to have partnership as a basis. Cousins (2005, p216) informs us that:

> *While the Third Way seeks to strengthen 'partnership and dialogues between all groups in society and develop (…) a new consensus for change and reform'…*

this "new role for the state does not mean a return to traditional corporatism". Dobrowolsky (2003, p16) also asserts the difference between partnership and corporatism and states that:

> … *New Labour's partnership could never be confused with a European social partnership model. If British trade unions had hoped to forge a more European partnership, with Labour's rise to power, then they have been sorely disappointed.*

Those groups involved in the search for "appropriate solutions to social exclusion", she claims, do not include "more critical and radical social movements and collective

identity-based groups" (ibid., p12). The following sections will analyse relevant aspects of employability from an ideological perspective in a chronological manner.

2 IDEOLOGICAL CONTEXT

2.1 WELFARE STATE TRANSITION: COLLECTIVIST OR INDIVIDUALIST?

McBride (1998, pp20-22) has suggested a less than stable approach to learning in Britain since the 1960s, which seemed blighted by disjointed efforts and confusion between policy related to employment on the one hand, and training on the other hand. These he claimed, although related, needed specific policy approaches. He goes on to intimate that the *Industrial Training Act, 1964* and its useful approach to training was later "sidetracked by" (ibid., p22) an emphasis on unemployment.

An influence of social democracy, a paternalistic outlook, and a collectivist view on training with the general population in mind, were gradually diminished as the post-welfare state agenda took hold. This, being influenced by the New Right, had a more individualistic view. The onus was gradually placed on the individual to attain the training. Although, Hayek (1959, p257)[43] for example, declared that "the conception of the welfare state has no precise meaning", he did concede that the phrase can be used:

> *… to describe any state that 'concerns' itself in any manner with problems other than those of the maintenance of law and order …* (ibid.).

It is worth noting that differing political incumbents have not necessarily had opposing views in terms of the general direction of the transition of the welfare state. However, ideologically based methods had an influence on the employability/education link.

[43] Reprinted Friedrich von Hayek, "The Meaning of the Welfare State" in *The Welfare State Reader*, Second Edition edited by Christopher Pierson and Francis G Castles (Cambridge: Polity Press, 2006) pp. 90–95 at p. 90

2.2 A LINK BETWEEN EMPLOYABILITY AND EDUCATION?

As early as the mid 1970s, the so called *great debate* on education culminated in a focus on employment rather than on a welfarist agenda[44]. When the Training and Opportunities Scheme was replaced in 1985 by the Job Training Scheme, there was a principle introduced of working for benefits (Tusting and Barton: 2007, p13). As Myles (1996, p132) explains, while exempting the disabled, this so-called *workfare* direction demands that:

> *… all those unable to support themselves should be required to provide labour in return for public support … The purpose is not to enhance welfare but to enforce moral and cultural standards of behaviour on the poor.*

The logic behind the Job Training Scheme also appears to highlight a connection between employment and education. The Conservative New Right of the 1980s arguably provided the changes that consolidated the continuing transition away from the welfarist method of state intervention. The policies involved to attain objectives in relation to welfare payments were said to be aimed at, inter alia, decreasing the dependency on welfare, trying to target benefits at those most in need and endeavouring to move from the idea of the state as the main provider of social insurance (Clarke et al: 2001, p80).

Pierson (2006, p161) does not accept the strong consolidating position attributed above to the Conservatives in the diminution of the welfare state. He points to the Labour governments of the 1970s that demonstrated neoliberal aspects of policy, such as the curtailment of welfare spending, that coincided with those of the Conservatives of the

[44] See Right Honourable John Callagahan, "The Ruskin College Speech" in *Diversity and Change: Education, Policy and Selection* edited by John Ahier, Ben Cosin and Margaret Hales (London: Routledge, 1996), Chapter 10, p. 202

1980s. If Pierson's comments are accepted, these apparent aspects of overlapping policy ideologies may be evidence of a nascent coming together of ideals in pursuit of a changed socio/cultural/economic society after the Golden Age of the welfare state. They may also go some way to explaining the very similar directions that both Conservatives and New Labour governments took in the mid 1990s, a point which will be attended to presently in this chapter. Pierson claims that the changes sought by the New Right were diminished to what he calls structural adjustment which included:

> *… trying to move from a 'passive' (social transfers) to an 'active' (retraining and work placement) welfare state* (Pierson: 2006, p169)

What was gradually being established, although at times varying in direction and even confusing and confused at times, was a more concerted effort by governments to engage state intervention to empower citizens for self responsibility. To the fore eventually in this engagement, would be the idea of State encouraged education and training. However, this policy was not always driven totally by the same ideological understandings.

The early 1980s saw the Conservative government influenced by a version of Human Capital theory[45] to promote training to improve employability. This more traditional human capital theory "focused on the private rather than social gains from education" (Dearing: 1997, p1).[46] From the mid-1980s onwards, neoliberal marketisation of the education sector became prominent, particularly so after the *Education Reform Act, 1988*.

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[45] See Denis O' Sullivan, *Cultural Politics and Irish Education Since the 1950's: Policy Paradigms and Power*, (Dublin: Institute of Public Administration, 2005), pp. 142-145 for a discussion on Human Capital and K Tusting and D Barton, *Programmes for Unemployed People Since the 1970s: The Changing Place of Literacy, Language and Numeracy*, (London: The National Research and Development Centre for Adult Literacy and Numeracy, November 2007), p.28

[46] National Committee of Inquiry into Higher Education (Dearing Report), *Higher Education in the Learning Society*, (National Committee of Inquiry into Higher Education, 1997) as downloaded from www. leeds.ac.uk/educol/niche, Report 8, Section 2, 2.1

New Growth Theory debated different understandings of the position of human capital within the economy.[47] New Growth Theory ideas had human capital as the "principal engine of growth" (Tusting and Barton: 2007, p28). This was more influential as the 1990s progressed. What New Growth Theory essentially did was to combine older growth theories, which had no role for education in the creation of human capital (Dearing, 1997),[48] and Human Capital theory. The various ideas within the study of New Growth theory included knowledge as having externalities or spillovers where benefits of education could help others within a given firm, or increase production. Ideas also included education as a public good which was debated in chapter four on culture.

Notwithstanding, the acceptance of human capital theory is not universal. While acknowledging education and training as a strong tenet of the theory of a social investment state (a concept explained a little further on), Esping-Andersen draws attention to the limits of a learning strategy. Apart from the heavy investment involved in such a strategy, he also states that:

> *Activation measures, such as training or retraining, will have a low payoff if workers' initial cognitive capacities are low. They are much more likely to pay off if they are designed around a more comprehensive and individualized 'activation package'.* (Esping-Andersen, 2001)[49]

Although the cognitive capacity problems are deemed more likely to be applicable to older low-skilled citizens, it is not inconceivable that the younger post-16 age cohort, if

[47] See Ron Martin and Peter Sunley, "Slow Convergence? The New Endogenous Growth Theory and Regional Development" in *Economic Geography*, Vol.74, No. 3, July 1998, pp. 201-227 and See Khaled Hussein and A.P. Thirlwall, "The AK Model of "new" Growth Theory is the Harrod-Domar Growth Equation: Investment and Growth Revisited" in *Journal of Post Keynesian Economics*, Vol. 22, No. 3 Spring 2000, pp. 427-435

[48] Dearing Report 1997 supra, Report 8, Section2

[49] Reprinted Gosta Esping-Andersen, "A Welfare State for the Twenty-First Century" in *The Welfare State Reader*, Second Edition, Edited by Christopher Pierson and Francis G Castles (Cambridge: Polity Press, 2006), pp.434-454 at p.447

educationally disadvantaged, could be involved also. Fitzsimons (1999) highlights some more criticisms. While acknowledging that education may help economic growth, he stresses that many other instances, for example roads, health and housing, may also influence economic growth. He disputes the superior position assigned to education. The debatable assumptions that humans always act rationally when it comes to maximizing utilities and that increased education levels will inevitably lead to the expected increases in productivity, or that the economy is separate from other aspects of culture and not influenced by these are also indicated as complicating factors. Hence, human capital theory is said not to address these factors appropriately or indeed that the ideological promotion of the theory fails to adequately account for them.

Moreover, Coffield (1999) questions the reverence attached by government policy to human capital theory. He suggests that it attaches blame to the victims for their lack of education and diverts attention from structural failures and injustices of society. In addition, he points to the contribution that proponents of human capital theory have made to credential inflation and further suggests that it could lead to a position where an individual is given access to education in some circumstances based on their possible contribution to the economy which in the longer term could lead to exclusion of the less able rather than aiding their employability. Further criticism by Coffield (1999, p486) saw a general push on lifelong learning as deflecting “attention from the need for economic and social reform”. More recent criticism by Olaniyan and Okemakinde (2008, p160) also advert to the fact that governments viewing education “as a panacea for the

attainment of development objectives is risky" as there is no guarantee that investment in education will "correspond to original intentions".

2.3 CONTRADICTORY POSITIONS: WORK OR EDUCATION/TRAINING?

Notwithstanding these contested and continuing arguments, human capital as a concept has remained influential but despite the elevation of the position of education in human capital terms by New Growth theory and the later acknowledgement by the Dearing Report 1997 of the importance of the growth theory position[50], the mid 1990s also witnessed a consolidation of welfare-to-work strategies with concomitant contradictions for the position of education. Some welfare-to-work strategies have given some indication of a lasting confusion between training, or indeed education generally, and unemployment, with government policy pushing work and education at the same time. This as Gleeson (1993) mentions, is contradictory, if the push for workfare and training/education, although happening at the same time are not being related, and are essentially going in opposite directions, with the resultant diminution of the education/training/employability link within policy.

The idea of a welfare-to-work strategy had been tried in the United States as far back as the early 1980s and welfare reform programmes in the United Kingdom borrowed heavily from what were perceived as the successful elements within. The Conservatives had legislated in a welfare-to-work mode close to the end of their time in government and they were not enabled to apply the rectifying (alterations considered after judging whether a statute *can* attain or whether it *is* attaining objectives) and balancing (rational

[50] The whole of Report 8 is dedicated to New Growth Theory

discussion on distributive and social justice issues) functions[51] to legislation like the *Jobseeker's Act, 1995* that highlighted the apparent contradiction of a push for education and training in conjunction with a welfare-to-work strategy. The rectifying (including accountability) and balancing (including partnership) functions as outlined in chapter five, allow for adjustments to be made to legislation having given the legislature time to reflect on whether the legislation is attaining objectives.

The understanding of a welfare-to-work strategy for the purposes of the study is relevant at this point. Also recognized as workfare, Deacon (2002, p138) describes this as referring " … to the requirement that welfare claimants must fulfil specific work requirements in return for receiving benefits." He continues that the stringency of requirements attached is debatable and varies among writers from just attending interviews, to attending education and training, to working a specific amount of hours per week. Pierson (2006, p182) concurs and says that " … support for the unemployed can be made conditional on job-seeking activity or even involve working for benefits." This he describes as workfare and claims it is part of structural adjustment and is evidence of an active welfare state as mentioned previously.

After the 1997 election, and New Labour's success, the welfare-to-work strategy showed elements of change. The *New Deal for Young People* which was aimed at 18-24 year olds began in 1998 and is a useful example here. A welfare-to-work scheme, it is an illustration of an Active Labour Market Policy. Notwithstanding, it did appear to show a

[51] See chapter five on Some key legislative practices for conceptual framework

nascent move towards a more prioritized view of education and training. While writing about the social investment state, Giddens (1998) stated that:

> *The position of the third way should be that sweeping deregulation is not the answer. Welfare expenditure should … be switched as far as possible towards human capital investment.* [52]

Here Giddens acclaims implicitly the use of education and training. There is also a confusing attempt to distance the Third Way from sweeping deregulation which would seem to go against the tenets of neoliberal thought (Thorsen and Lie, undated, p.9). This arises as the pattern often attributed to neoliberal ideology would laud deregulation even at the expense of employment. Yet, this can be looked at in another way if the term *sweeping deregulation* is taken to indicate a nonchalant disposal of regulation in general. The thought process would seem to indicate a specific form of regulation being recommended in the genre of highlighting education and training.

In a paper by Richard Layard (2001), positive signs were suggested as being in evidence from the programme's *(New Deal for Young People)* output. However, Tomlinson (2005, p106) remarks on how " … the New Deal failed to help the most disadvantaged". It comprises three phases where the second stage known as *options* gives a choice of education and training or work experience. It is worth considering Tomlinson's claim of the programme failing to help the most disadvantaged. An immediate consideration is the failure or lack of a proper demand-side approach (See for example later in this chapter, Peck, 1999; Gore, 2005; Theodore, 2007). This approach would consider geographical areas that are most in need of economic development as potential blackspots for

[52] Reprinted Anthony Giddens, "Positive Welfare" in *The Welfare State Reader*, Second Edition, Edited by Christopher Pierson and Francis G Castles (Cambridge: Polity Press, 2006), pp. 378–388 at p.384

provision of good quality jobs following education, training or work experience. The implication, as discussed in the chapter four, is the inadequacy of the programme to overcome the power structure.

If educational improvement, for example when used for employability, can comprise what Biesta (2011) calls educational cultures and learning cultures, there is need to consider aims, objectives and purposes of a given educational setting. Moreover, a consideration of the Bourdieuian concept of habitus can be included with these aims, objectives and purposes. Where habitus is meant to explain "how objective structures and subjective perceptions impact upon human action" (O'Brien and Ó Fathaigh: 2005, p68), it becomes apparent that the ability of individuals to mediate is not just dependent on their participation but on objective structures, like a geographical area.

Pierson (2006) also says workfare was part of the politics of the *Third Way*. The Third Way is described in the following terms:

> *The Third Way lay between but more importantly 'beyond' two alternatives that were seen to have failed – not just the market-led neoliberalism of Margaret Thatcher but also the state-led, producer-driven, paternalistic management of the old-style social democracy, including its commitment to a 'passive' welfare state* . (Pierson: 2006, p183)

Despite the use of the phrase *beyond*, other contributors such as Steger and Roy (2010) describe the Third Way as second-wave neoliberalism which would aim to rid first-wave neoliberalism of its "neoconservative accretions" (ibid., p51). While describing New Labour's educational strategy as based on centralist progressivism, O'Brien (2001, p41),

although suggesting influences, also points to aspects of difference from neoliberalism. While centralist progressivism involves an attempt to synthesize economic progressivism and social progressivism, the economic side of the synthesis, in contrast to neoliberalism, accepts rather than forefronts the market mechanism in policy formation. In any case, the thinking behind New Labour ideology put a premium on human capital and social investment.

Human capital as a social investment echoes the thinking behind New Growth Theory. Esping-Andersen (1996, p3) says of social investment that:

> *Rather than draconian roll-backs, the idea is to redirect social policy … towards active labour market programmes that 'put people back to work', … and train the population in the kinds of skills that postindustrial society demands.*

Writing in the mid 1990s, and claiming that the ideas behind social investment put a "stress on human capital", he considered it a "leading theme" in the European Community at that time (Esping-Andersen: 1996, p3). If social investment is regarded as part of the Third Way, Cousins (2005, p218) is not so fast to accept the latter as "anything more than a catch phrase". He refers to the term as "vague" (ibid., p215) and states that:

> *The extent to which the Third Way exists as a real basis for policy (outside different national contexts) may be open to question.* (ibid., p216)

While referring to the 1999 Blair-Schroeder document on the Third Way he states:

> *As the Third Way does not represent the official policy of any particular government or international body, it is more difficult to identify a coherent textual corpus setting out its detailed aims and objectives … (ibid.)*

2.4 SUPRANATIONAL INFLUENCE AND THE SOCIAL INVESTMENT STATE

It has been acknowledged that literacy and numeracy have been given a status of importance in various employment seeking strategies over the decades (Tusting and Barton, 2007, p10). As the 1990s progressed, there was an increase of interest in literacy as a means to secure economic development. This arose because of three main reasons. The first was because of the impact of the International Adult Literacy Survey (IALS) throughout the mid 1990s. Comings and Vorhaus (2008, p6) claim that before the International Adult Literacy Survey (IALS) details were published, the basic skills education for adults was not a priority for government in England. The second was the interest in New Growth Theory and the positive relation between human capital, externalities and economic growth. The third reason was the acknowledgement that literacy was part of the "broader human capital equation" (OECD: 2000, p61). According to the OECD (2000, pp83-84), literacy serves as a tool for efficient learning, and aids participation in the economic, social, cultural and political life of the learner. Literacy skills are related to increased employability, increased earnings and there is evidence for the existence of a relationship between literacy inequality and economic inequality (ibid., p84).

Levitas (2001, p451), writing close to the end of New Labour's first term in government, claimed that both "work" and the "work ethic" were central themes for that government. While the Conservatives had reduced the number of hours that learners could study without losing benefits (Bell and Jones, 2002, p14) after the *Jobseekers Act, 1995*, New

Labour were claiming a Third Way of politics. This included what Lister (2003)[53] refers to as an "emergent 'social investment state'". She quotes Giddens' 'No rights without responsibilities' as a motto for Third Way politics (ibid.). This appears to highlight responsibility on the part of the citizen in the welfare-to-work strategy as opposed to a method of reduction in state welfare expenditure. Although the result may be similar, the ideology is ostensibly different. Lister quotes Brown to describe the 'social investment state':

> *The role of Government,… is – by expanding educational, employment and economic opportunity, and by encouraging stronger communities – to enable and empower people to make globalization work for their families and their future.* (Lister: 2003, as reprinted p457)

Lister (ibid., p466) also points to the fact that the social investment state blueprint is more child based and she suggests that the strategy has a view of training for the future as workers, rather than looking after the present status of any disadvantage. It is intimated that despite aiming to integrate economic and social policy, the social investment state philosophy does not challenge the traditional subordinate position of social policy to economic policy. This, although having children at the root of the ideology, can be easily extended to young adults who also embody, not only the future of the economy but the establishment of social capital. Lister also writes that "As well as investment in 'human capital', the social investment state is concerned to strengthen social capital" (ibid., p458).

[53] Reprinted Ruth Lister, "Investing in the Citizen-Workers of the Future: Transformations in Citizenship and the State Under New Labour" in The *Welfare State Reader* Second Edition edited by Christopher Pierson and Francis G Castles (Cambridge: Polity Press, 2006) pp.455-472 at p. 455

This was a point made by the OECD (1999, p48) also when they claimed that human capital and social capital were "equally important". They described social capital as "participation in networks, contact chains, and community structures" (ibid). They claimed adult learning both "fosters 'social capital' and depends upon it" (ibid). Both human capital and social capital are perceived to be needed in "devising initiatives to tackle exclusion" (ibid). Bonoli (2005)[54] considers that the direction of policy in the UK of the late 1990s and early 2000s was one of the more successful of the Third Way examples. It led to electorate satisfaction and re-election for New Labour. The human and social capital aspects that had a large part to play in that success came in the form of a focusing of social policy on New Social Risks (NSRs) (Bonoli, 2005, p403). These included forefronting policies for dealing with, inter alia, the ideas of "reconciling work and family life", "possessing low or obsolete skills" (ibid., pp389-390) and also "active labour market policies" (ibid., p403). Some of these, Bonoli claims, are related to the "socioeconomic transformations that have brought post-industrial societies into existence" (Bonoli: 2005, p389).

The active labour market policies are described by Clarke (2000, p101) as "a broad range of measures which are designed to improve the skills and competencies of workers and support the search process in the labour market". The active labour market concept and the policies therefrom can demonstrate an overlapping of legislative and cultural perspectives that gives rise to an insight into the power struggles in society. Where those in power do not share the design of a programme and concentrate on nodal discourses,

[54] Reprinted Giuliano Bonoli, "The Politics of the New Social Policies: Providing Coverage against New Social Risks in Mature Welfare States" in The *Welfare State Reader* Second Edition edited by Christopher Pierson and Francis G Castles (Cambridge: Polity Press, 2006) pp. 389–407 Original 2005

such as the knowledge-based economy, with an agenda based on the dominant culture or ideology, there may be a lost opportunity. A knowledge-based economy is one

> … *directly based on the production, distribution and use of knowledge and information. This is reflected in the trend in OECD economies towards growth in high-technology investments, high-technology industries, more highly-skilled labour and associated productivity gains.* (OECD: 1996, p7)

The use of learning partnerships as a policy instrument to tackle social exclusion (see O'Brien and Ó Fathaigh, 2007) becomes relevant in the search for appropriate, representative programmes. These learning partnerships may allow what Coleman (1997) refers to as social capital and particularly a *norm in a community*, to establish an educational culture or a learning culture framed by purposes (Biesta, 2011) for use by the educationally disadvantaged. One such purpose would be employability.

Levitas (2001, p451) also claimed that "social exclusion" and "making work pay" were dominant policies and were "intimately linked ... since social exclusion is principally construed as non-participation in the labour market". This was in contrast to the understanding of social exclusion in Britain in the early 1980s which saw it as "the inability to participate in common social activities, chiefly as a result of poverty" (ibid., p451). This, it is explained, involved the policy of redistribution both directly through "increased benefits" and "reduced inequality" and, indirectly, by "increased spending on public services" (ibid., p451). Persuasive arguments were also filtering through to members of the Organization for Economic Co-operation and Development (OECD). While researching the area that is adult exclusion, the OECD's conclusion was that

"learning works" (OECD: 1999, p10). The question arises as to how this change in the link between employability and education influences policy in England.

2.5 CHANGING FACE OF EMPLOYABILITY

In discussing an analysis of educational policy, O' Sullivan (2005) explores the idea of policy paradigm as an interpretive framework. In writing on the connection between "understanding and action" (ibid)[55], he probes the relationship between these two ideas and "how educational policy is shaped by the meanings that come to be shared by those who influence policy" (ibid). While using the framework developed in chapter five on some key legislative practices, it is useful to draw on the aspect of change in the context used by O' Sullivan and refer to it for a discussion of the cultural politics of the English system.

For FE legislation to have a legitimating function (or to give a topic a tangible status where there is a duty on relevant parties to take some measures to react appropriately), there needed to be a change of understanding by those enacting policy, so that the meanings attached to, for example, the *need for literacy competence* and the *need for a system to be demand-led as opposed to supply driven* could begin to express a facilitative function (or to encompass authority to operate or allow sanction). Of the five paradigmatic shifts or changes mentioned by O' Sullivan (1993, pp 246-272), mutation would seem the most useful to describe the policy change here. He says of mutation that the defining characteristic is:

[55] ibid See introduction

> … *the reworking of an element of a paradigm to the extent that it facilitates the emergence of a new paradigm. The emerging paradigm is experienced as an outgrowth from the replaced paradigm. Since the growth is organic the sense of dissonance, confrontation, or contestation is greatly reduced.* (O' Sullivan: 1993, p265)

The element that is reworked is the modus operandi of the FE system. If the paradigmatic shift (in particular with regard to the concept of literacy competence and the move to a demand-led system) is regarded as a mutation, the following can then be said. The mutation enabled the new policy agenda to be very quickly assimilated "by those who influence policy" (O' Sullivan, 2005) and the environment that they influence and the "concepts, terms, themes, policy options, and authorities" (O' Sullivan: 1993, p265) involved in the earlier paradigm were easily accepted into the new one with the appropriate mutations.

The demand-led system could tie in with the concept of partnership as mentioned by New Labour. The idea of literacy, as viewed from a human capital perspective, could also connect with FE in a social investment state. However, there are aspects of this "understanding and action", as mentioned by O' Sullivan (2005), that allude to misunderstandings or at least a refusal to accept some of the cultural aspects relating to participation, human capital and accountability. The resultant policy enforcement may be compromised.

Keep (2006) makes some observations in this regard. He claims that the English system of education and training has become a lot more centralized since the early 1980s. Sofer (2000, p177) reiterates this and, in so doing, notes the gradual removal of what she calls

an " 'intermediary' layer" constituting "some sort of locally elected connection, between central government and the individual school". As a corollary, the idea of partnership has been confused. Even though New Labour claimed an interest in partnership, it may not involve, what Ottaway and Chung (1999) refer to as, a bottom-up approach. The latter might achieve a demand-led or "beneficiary-driven" (ibid., p101) system. What is worth considering here also is the difference between a bottom-up style that considers local needs involvement in a decentralized format with a demand-side approach, as against a bottom-up approach that deals more with individual needs.

When one mentions demand-led or beneficiary-driven, the temptation is to consider the individual instead of the group. The individual approach can quite easily be subsumed into a marketisation of education discourse. When considering the group approach, Honig (2004) uses aspects of organizational learning theory to consider the search for site/group specific needs and goals, and subsequent use of that information on identified needs and goals to implement appropriate policy in a bottom-up approach. She identifies the presence of paradoxes that make policy decision making more difficult in such an approach. Of particular relevance are the accountability and evaluation procedures that are pertinent to compliance in carrying out policy. The bottom-up approach is more likely to use open-ended rules as opposed to closed rules. The former allow more flexibility in the implementation of policy process but can give rise to difficulty in accountability aspects because of the variation in site management.

In the case of New Labour, Larsen, Taylor-Gooby and Kananen (2006) refer to the mix of policy approaches between top-down and bottom-up which confuses the situation. They conclude that the mix depended on the type of policy involved and if service-oriented, was more likely to be bottom-up, while if ideologically or politically driven was more likely to be top-down. The confusion is when a program like the New Deal for young people or the *National Minimum Wage Act, 1998* contains aspects of both policy approaches at different stages of the implementation (ibid., p641). Partnership is deemed to suffer for weaker power based interest group negotiations with government.

Managerialist manipulative strategies are also highlighted even in some of the adjudged bottom-up approaches. The Low Pay Commission, formed prior to the National Minimum Wage Act, is mentioned as an example to indicate an apparently independent, but government influenced group nonetheless. A true bottom-up approach would aim to rekindle the relevant elements of partnership or interest group participation to empower the disadvantaged. Moreover, centralization may conflict with proper partnership. There is a contradiction of more government power while claiming less. This seems to have been recognized somewhat by New Labour, as the *Apprenticeships, Skills, Children and Learning Act, 2009* has given back some power to LEAs for those over compulsory school age, but under 19. As the tenets of managerialism set out to audit "a strategic approach" (Preston, 2001) or as previously mentioned, the belief that by setting goals all of us will get to where we wish to be, the question arises as to whether accountability and auditing structures may go some way to controlling the power intimated by centralization. In other words, this attention questions whether centralization facilitates

those in control to have more power or whether auditing and accountability expedite the appropriate environment for the control of such power.

The power intimated by centralization becomes open to scrutiny. This scrutinizing process shows the relevance attached to the attempts to control the legitimation crisis. Habermas (1973, p655) illuminates this crisis as follows:

> *We can regard the state as a system that uses legitimate power. Its output consists in sovereignly executing administrative decisions. To this end, it needs an input of mass loyalty that is as unspecific as possible. Both directions can lead to crisislike disturbances. Output crises have the form of the efficiency crisis. The administrative system fails to fulfill the steering imperative that it has taken over from the economic system. This results in the disorganization of different areas of life. Input crises have the form of the legitimation crisis. The legitimation system fails to maintain the necessary level of mass loyalty.* (Habermas: 1973, p655)

The implication by government in using the concept of centralization is that while power is more centralized, this has socialist (for the people) more than capitalist (for the market) underpinnings. Further scrutiny questions whether this is a manipulative strategy which aims to allow centralized control while depending on what Habermas calls civil privatism, to enable mass loyalty or legitimation. Civil privatism is the motivation contributed by the sociocultural system and "corresponds to the structures of a depoliticized public" (Habermas: 1973, p661) which Crossley (2005, p45) elaborates on by stating that this means "modern citizens are disposed to let politicians get on with it and to pursue their own private and domestic pleasures rather than public goods".

This has a similarity with Foucault's government of individualization, where the dispositions of the population are controlled by cultural traditions. The top-down control

often exhibited by centralization may not be contested as easily by participation/partnership and the educationally disadvantaged need the option to engage in bottom-up mechanisms of government. In this sense, the negative view often attached to politicizing aspects of culture, heretofore not so much a part of the system, is turned on its head to see a positive view in the process of politicizing the employability of the educationally disadvantaged.

There are other contradictions in Third Way policy, which extols the benefits of inclusion, if the academic/vocational divide remains, which extends to a complication of human capital usage and definition. The elitism predominant on the academic educational qualification scene appears unconducive to a properly inclusive system. However, the *Apprenticeships, Skills, Children and Learning Act, 2009* has made inroads here also with the establishment of the Office of Qualifications and Examinations Regulation (Ofqual), as that office oversees the comparisons of levels and standards of qualification from both aspects of the divide, allowing at least in theory, the divide to be eliminated.

In terms of the policy paradigm as an interpretive framework, the "regulatory power" of a paradigm as described by O' Sullivan (1993, p261) is:

> *… a function of how weakly or strongly framed are its boundaries, the nature and range of the phenomena controlled, and where within the policy making community and beyond the paradigm is dominant.*

The aspects of centralization and the academic/vocational divide and their effect on the local influence and an elitist agenda respectively, may weaken the paradigm mutation.

The facilitative function (to encompass authority to operate or allow sanction)[56] of the legislation enacted to accomplish the demand-led system, such as the Education and Skills Act, 2008, which would be expected to improve the use of the FE sector including literacy training, for its applicability to employability, may be compromised. This could happen as what O' Sullivan calls the "nature and range of the phenomena controlled" do not immediately appear to encompass the relevant aspect of local needs and elitism control to an adequate level. In particular, there is still a substantial amount of centralization for the education and training of the post-19 age cohort. The question arises as to whether a demand-led system can overcome this. The apparent hegemonic status attached to academic elitism, is also likely to prove difficult to overcome. Employability and inclusion may be in jeopardy to such an extent as to stop legislation from fulfilling a protective function (not the guarding of the ideological hegemony of the powerful classes but a proportionate safeguarding of objectives).

The discussion thus far has endeavored to give some insights into the ideological context in England and the emerging of an employability/education link. The following sections highlight the progress of this aspect in practice through the use of FE programmes, with particular emphasis on the 16-24 year old age cohort.

3 SPECIFIC PROGRAMMES: LEGISLATIVE AND CULTURAL PRACTICES

3.1 ROLE AND APPLICATION: EDUCATION/TRAINING IN MINOR FOCUS

The Labour government's *Social Security Act, 1975* had a requirement to avail of a reasonable training opportunity or potentially suffer disqualification from receiving

[56] See chapter five on Some key legislative practice perspectives for conceptual framework

unemployment benefit for up to six weeks. While this exhibited a post-welfarist aspect of policy, it also drew attention to the implication that training, in a nascent post-Fordist economy, had implications for job attainment.

The Youth Training Scheme (YTS) 1983, established by the Conservatives, also used sanctions for those who "refused or prematurely left a place on YTS" (Tusting and Barton: 2007, p18). Their Job Training Scheme 1985 for adults, had one of the earliest versions of a workfare programme that consolidated a cross party acknowledgement that citizens had to accept that the state was attaching responsibility to state financial aid. This responsibility included an acceptance of the requirement to update skills by those receiving financial aid if the need arose. The *Employment Act, 1988*[57] changed the Manpower Services Commission's name to the Training Commission. Similar to the Youth Training Scheme form 1983, this change of name seems to reiterate that a relation was seen to exist between employment and education for employability, and the more resilient this connection, the more likely that policy development would be influenced by this fact. Whereas the link grew stronger, the various policy initiatives that emanated from it were numerous and were influenced by varying concepts.

The Training Commission did not last long before, in late 1988, the announcement of Training and Enterprise Councils was made. These introduced a private sector direction to the national training programme (Tusting and Barton, 2007) whose licences ended in 2001. These councils were influenced by neoliberalism with an expected minimal state intervention. They also illustrated an ideological shift from a corporatist agenda and

[57] Section 24

became popular as marketisation of education became policy. Bailey (1995) suggests that the *Education Reform Act, 1988* imposed a quasi-market for education. This manifested aspects of a post-Fordist agenda which, inter alia, had "flexible labour" and "an emphasis on consumption and choice" as some of the relevant characteristics (Bailey: 1995, p487). Tomlinson (2005, p51) concurs that the 1988 Act brought "education into the marketplace by consumer choice".

The New Right idea of empowering the customer by giving choice would not only influence the compulsory sector but also the post-16 noncompulsory sector. The *Further and Higher Education Act, 1992* which established the new FE sector also had strong market principles at its roots. The powers of Local Education Authorities (LEAs) in the FE sector were diminished by the 1992 Act, having had the duty to provide for FE placed with them by the 1988 Act. The granting of independent status to FE institutions, which reduced the powers of the LEAs, was related to "the embedding of Thatcherite principles of choice and competition through the workings of the market" (Robinson and Burke: 1996, p3). Despite a gradual increase in acknowledgement of the education/employability link, the pursuit of a reduction in state welfare expenditure was still stronger in Conservative policy. The *Jobseekers Act, 1995* consolidated the punitive aspects of legislation for not availing of welfare-to-work opportunities with a possible twenty-six weeks disqualification.

The 1995 Act was adopted and rolled out by New Labour, arguably with a changed emphasis in favour of learning over reduction in state expenditure, due to a shift in

ideological stance toward self responsibility. Levitas (2001, p454) has expressed concern at the “strains and contradictions” in some of the New Labour policies with regard to the welfare-to-work strategy. These include the contradiction between the “emphasis on paid work, and the equal emphasis on the importance of parenting and of community, both of which depend on unpaid labour” (ibid., pp454-455). The Third Way, claimed by New Labour, has supposedly been more inclined towards social inclusion, partnership and self responsibility, aspects that were discussed in previous sections.

3.2 THIRD WAY POLICIES AND A NEW AGENDA

New Labour took power in mid 1997 with a developing, so-called Third Way policy agenda, and a mechanism for reducing “social exclusion by equipping all children to be active citizens and by encouraging young people to stay in learning after 18” (Bartlett and Burton: 2007, p215) being sought. To attempt to alleviate conditions caused by youth unemployment, the New Deal for the Young Unemployed between 18 and 24 years of age was introduced.

Moreover, a major piece of educational legislation was enacted with the *School Standards and Framework Act, 1998*. Section 10 of the act established Education Action Zones. These were aimed at areas of disadvantage. Any positive effects would be expected to influence literacy and the chances involved for transition from school to work. Argued to be strongly influenced by Putnam’s social capital theory (Gewirtz, Whitty et al, 2005), Education Action Zones, while educationally influential on the periphery of the 16-24 age cohort because of the main emphasis on compulsory

education, were aimed more generally at “families identified as socially excluded” (ibid., p651). An arguable corollary of this influence and general Third Way New Labour policies, is the perceived benefit of staying on in education.

With regard to age cohorts, the aspect of widening participation in education has been biased towards the young members of society. This was accompanied by the attempt to keep those younger members in education for as long as possible, as recommended by the Low Pay Commission (1998). Despite the *National Minimum Wage Act, 1998* allowing those over compulsory school age to qualify for the minimum wage, exemptions were allowed. The *National Minimum Wage Regulations, 1999* engaged this exemption for some citizens up to 26 years of age. Despite efforts, Abrams (2010, p6) documents the disappointing results from within the 16-24 year old age cohort who were not in education, employment or training. The figures demonstrate that from 2000-2003 matters actually disimproved.

For those in employment the welfare-in-work aspects of skill upgrading to help the working poor were substantiated in the Employer Training Pilots (ETP) from 2002. Their aim was to test the “effectiveness of a package of support measures in stimulating additional work-based training, leading to improved acquisition of skills and qualifications for low-skilled employees.” (Tamkin et al: 2006, p130). Moreover, later legislation consolidated welfare-to-work strategies of New Labour via a strong emphasis on basic skills. Earlier legislation had been used to facilitate an encouragement to partake

in basic skills training for employment. The *Employment and Training Act, 1973*[58] section 2 which was substituted by section 25(1) of the *Employment Act 1988*[59] was used to bring about legislation like the *Social Security (Basic Skills Training Pilot) Regulations 2004* which aimed to sanction, by removal of some or all of a jobseeker's allowance, from those refusing or leaving a basic skills training scheme[60].

This highlights the close proximity of policy issues on participation, accountability and human capital. The aim of these sanctions is to establish a self responsibility for participation. It demonstrates accountability for monetary expenditure by government. It also serves as a perceived accountability for those who expect government to intervene in system crises. From a managerialist perspective it manages to draw a focus on the removal of citizens from the unemployed lists. What this does is to draw attention to the effectiveness of government policy without considering the appropriateness of forcing people to train just because they are unemployed. On the other hand, the use of this policy track involving human capital in the form of education/training also shows a strong belief by government in a need to conserve a work ethic (as part of self responsibility), a cultural disposition that Crossley (2005) states is a must for capitalism's effective functioning. Along with civil privatism, work ethic allows the avoidance of motivation crises, crises which if present, could lead to a legitimation crisis. In contrast to the salience of self responsibility, the *Children Act, 2004* established, as one of its more prominent aspects, a Children's Commissioner who among other things, has a function

[58] c50 1973
[59] c19 1988
[60] This sanction was legislated for in the Jobseekers Act, 1995 sections 19 and 20A. The latter being inserted by the Welfare Reform and Pensions Act, 1999 section 59

under section 2(3)(c) to be concerned "with the views and interests of children" in relation to "education, training and recreation". The Children's Commissioner has functions in relation to those under 18 or according to section 9 of the 2004 Act, those aged 18, 19 or 20 in some circumstances.

Neoliberal tenets have also led to education inspection as a method of accountability. In itemizing elements of policy, including inspection, Bartlett and Burton (2007) maintain that it involves part of joined up government which puts a certain agenda of accountability in context. This is aimed at giving citizens a better chance and policies are part of a wider social strategy aimed at inclusion. The joined up government involves an "overlap between social, economic and education policy" (ibid., p219).

3.3 MANIPULATIVE DISCOURSE AND THE DISADVANTAGED

New Labour enacted the *Education and Inspections Act, 2006*.[61] Since the first of April 2007, the new Office for Standards in Education, Children's Services and Skills (still known as Ofsted) has come into being. This was established by the 2006 Act[62] and extends mainly to England and Wales, and inspects "education and skills for learners of all ages"[63]. This office encompasses the adult learning inspectorate as was. Although promoting accountability may be for monetary reasons, to assess the impact of an education/training programme or to judge educational/training accreditation standards, inspection also concerns the aspect of identification for comparison which can aid consumer educational choice in a market driven environment.

[61] c40 2006
[62] Part 8, Section 112
[63] http://www.ofsted.gov.uk/ as accessed 25-10-10

The idea of marketisation as consumer choice based, has undertones of meritocracy. Taylor (2005, p113) implies that meritocracy may masquerade as equality. Meritocracy also emphasizes individualism. This appears to have been an influential factor in the movement away from the collective aspects of disadvantage to the more individualistic aspects of "inclusion" and "exclusion" (Taylor: 2005, p112). On the topic of collective versus individualistic and the movement towards the latter with the use of *inclusion* and *exclusion*, a definition of disadvantage is worth considering. The disadvantaged are not necessarily defined in legislation. The use, for example, of the phrase *social disadvantage* or *disadvantage* in the *Natural Environment and Rural Communities Act, 2006* and the *Charities Act, 2006*, without adequate definition misrepresents the complex nature of the concept in the academic literature. The Leitch Review of Skills (2006), in the context of globalization, acknowledges the plight of the disadvantaged without adequately defining the group either.

Globalization was described by Hay (2001)[64] as the "competitive imperatives of a borderless world characterized by the near perfect mobility of the factors of production". Scharpf (1996) perhaps prophetically wrote that

> *when boundary control declines, the capacity of the state and the unions to shape the conditions under which capitalist economies must operate is also diminished.* [65]

[64] Reprinted Colin Hay "Globalization, Economic Change and the Welfare State: The 'Vexatious Inquisition of Taxation'?" in *The Welfare State Reader* Second Edition edited by Christopher Pierson and Francis G Castles (Cambridge: Polity Press, 2006) pp. 200-222 at p. 200

[65] Reprinted Fritz Scharpf "Negative Integration: States and the Loss of Boundary Control" in *The Welfare State Reader* Second Edition edited by Christopher Pierson and Francis G Castles (Cambridge: Polity Press, 2006) pp. 223-225 at p. 224

In a time when England is part of a single market in Europe, not to mention a world economy, Scharpf's comments on the decrease in power of the unions is persuasive in its explanation of the move from corporatism to partnership. Despite the rhetoric on partnership, the diminution of the strength of group participation in favour of individualistic constructs, throws a spotlight on an attempt at manipulation by those in power. However, Habermas (1973, p657) warns that "the scope for manipulation … is narrowly delimited … there is no administrative creation of meaning, there is at best an ideological erosion of cultural values".

Nonetheless, this kind of manipulation is likely, without adequate group representation, to destroy the mediation possibilities within Bourdieu's concept of habitus for those among the educationally disadvantaged. In the process of learning the cultural values can be eroded by failing to acknowledge those values within mainstream learning in, for example, the FE sector. The employability deemed necessary for globalization is open to compromise. This at a time when the primacy of lifelong learning is acclaimed by the OECD and the skills that can be achieved:

> *are a response to the demands of globalisation and the dawning knowledge economy that requires their continual upgrading as production shifts from tangible goods to abstract goods.* (OECD: 2007, p18)

A continual upgrading, not only for globalization but in general, could be related to an increase in what Nativel (2006) calls welfare-in-work strategies. This she explains by stating that:

> *The governments of OECD member countries have begun to acknowledge the importance of upgrading the human capital of those workers trapped in low-skilled, low-paid and often insecure jobs.* (ibid., p34)

This strategy is in contrast to what is regarded as the "short-termism" (ibid., p79) of the welfare-to-work strategies.

Tamkin, Hillage and Gerova (2006, p137) also discussed "the skill acquisition of adults in employment", and pointed to early recommendations, before the Leitch Review in 2006, for this group, of a demand-led system (ibid., p139). The *Train to Gain* service came into being in April 2006 to help employers upgrade skills of employees. In general, the New Labour government proceeded with an upskilling strategy based on the White Paper *Further Education: Raising Skills, Improving Life Chances* from 2006 and the Leitch Review from later the same year and its endorsement of a demand-led system. The influence on FE is clear from enacted legislation such as the *Further Education and Training Act, 2007*, the *Education and Skills Act, 2008* and the *Apprenticeships, Skills, Children and Learning Act, 2009*. The latter Act led to the dissolution of the Learning and Skills Council in 2010 and the transfer of functions in April 2010 to the Young People's Learning Agency (YPLA) and the Skills Funding Agency (SFA). New Labour lost power later that year to a Conservative/Liberal coalition.

Within the Department for Business, Innovation and Skills' (BIS) *Skills for Sustainable Growth Strategy Document* from 2010, the new incumbents kept a preference for a demand-led system with consumer choice. The coalition subsequently closed the YPLA under the *Education Act, 2011* and subsumed its duties in the Education Funding Agency (EFA) in April 2012. The EFA and SFA cover the 16-24 year old age cohort for FE. Again the aspect of name changes and bureaucracy changes brings notice to what Preston

(undated, p6) says of the deflection of matters under managerialism's manipulation of the substantive issues.

4 IMPACT

4.1 SOME COMPARATIVE INSIGHTS

Snyder describes effectiveness for law as meaning that "law matters: it has effects on political, economic and social life outside the law – that is, apart from simply the elaboration of legal doctrine" (Snyder: 1993, p19). The impact of some legislative interventions and how they have combined with cultural perspectives for employability will be critically analysed in this section. Although it has been acknowledged that "Educational disadvantage is not always a factor in exclusion" (OECD: 1999, p158), at the same time it has been claimed that "Groups disproportionately at risk of exclusion in the UK include … the unskilled" (ibid., p157). It is with this in mind that the critical analysis of impact of key government interventions for disadvantaged and their employability will be examined, as it is predominantly by debating aspects of upskilling that more recent attempts by Conservative and New Labour incumbents have proceeded.

4.1.1 PARTICIPATION INSIGHTS

The Correspondence Principle as mentioned by Bowles and Gintis (1976, p131), imagines a correspondence with school and work. Each student is perceived as being conditioned towards their future place in the job market. There is also an implicit association with the compulsory phase of education. For the present thesis, in asking the question if legislation and cultural perspectives for FE and given age cohorts highlight

any insights for aiding the socio-economically disadvantaged through employability, there is an aspiration that any correspondence is changeable.

Bailey (1995) gives some support to this aspect of changeability when she outlines the Correspondence Principle's applicability to the *Education Reform Act, 1988*. She argues that the shortcomings include the lack of acknowledgement of resistance (the ability to withstand or to try to withstand the dominant ideology's power over less dominant ones) within the principle. This resistance can influence how policy is implemented as

> … *important differences may arise between education policy as originally devised and legislated, and the way this policy affects individual pupils after it has been mediated through educational players.*
> (Bailey: 1995, pp481-482)

In referring to the marketisation of education as occurred subsequent to the 1988 Act and the later *Further and Higher Education Act, 1992*, Robinson and Burke (1996) draw attention to possible problems associated with such an ideology by linking it with the negative aspects of the idea of cultural deprivation and blaming. They also draw attention to what they perceive as the intrusion into local and community, democratically controlled educational planning possibilities by the reduction of LEA power in the FE sector after the 1992 Act. This they envisage as potentially damaging to aspects of social justice which can become a subordinate aspect to marketisation on the government's policy agenda (ibid., p13).

Writing about the 1992 Act, Gleeson (1993) argues that:

> *Behind all the window dressing of corporatism and independence recent legislation represents little more than a political and administrative device*

> *which obscures a centralising and bureaucratic tendency, designed to reposition FE in the market place* (ibid., p36).

He contends that insights from the past have not been heeded. He cites Lee and Marsden's (1990) assertion that:

> *Leaving youth training to market forces, now as in the past, has resulted in under-provision, skill shortages and a waste of young people – tantamount to their civic exclusion* (ibid.).

Twenty first century discussions have similar reservations as Burchill (2001), using Walton et al's source of analysis from 1994, appears to go along with this line of unease by stating that the Conservative government used "unrestrained forcing" (ibid., p160) tactics to weaken and destroy any reluctance to follow the planned pathway of changes initiated in the FE sector from 1992. Burchill says that although it could be argued that the Labour government from 1997, used "fostering" (ibid., p161) which is "linked to creating a new relationship based on partnership and commitment" (ibid., p147), within the FE sector for its plans to rectify (alterations considered after judging whether a statute *can* attain or whether it *is* attaining objectives) and balance (rational discussion on distributive and social justice issues)[66] the perceived failures in the system, he does not accept that this happened. Although "forcing followed by fostering" is "an ideal approach to achieving partnership" (ibid., p161), Burchill claimed that the Labour government since 1997 had not come good on its claimed rhetoric of partnership. On a positive note, he appears to support the potential of the Labour government's earlier rhetoric, which included a push for human capital improvement.

[66] See chapter five on Some key legislative practices for conceptual framework

4.1.2 ACCOUNTABILITY INSIGHTS

Although writing a bit later, Taylor (2005) is also positive, claiming that progress, though modest, was made by New Labour. He draws attention to the fact that Labour, although focusing much attention on the marketisation idea, also had a social democratic vision for liberal education as a subplot to the human capital policy agenda. Taylor calls this marketised welfarism, meaning a " … New Labour ideological mix of meritocratic, individualistic idealism, laced with at least a little egalitarianism …" (ibid., p113). The question then arises as to whether this marketised welfarism is the same as the Third Way claimed by New Labour.

The movement ***beyond*** Thatcher's neoliberalism and social democracy, claimed by a Third Way political ideology as described by Pierson (see earlier definition), contrasts with Taylor's viewpoint of a ***mix*** of a social democratic vision and a neoliberal individualism. In an earlier description, Peters (1999, p8) had also claimed that advocates of the Third Way see it as uniting "two streams of left-of-centre thought: democratic socialism and classical liberalism". Peters (ibid., p8) continues that the social democracy is said to promote social justice as opposed to Taylor's claimed liberal education subplot. What can be argued is that the work ethic, described as a cultural disposition by Crossley (2005), and welfare-to-work strategies were more education/training biased than the Conservative reduction in state welfare payments bias. As Biesta (2011) says that learning is to be understood as a cultural practice, and as pointed out earlier, work ethic as a cultural disposition is regarded as necessary for the effective functioning of

capitalism, by relating education/training and work ethic in policy, the implication is that the social investment state needs education and training to avoid motivation crises.

The element of individual responsibility attached to New Labour policies included, not only neoliberal tenets, but a paternalistic welfarism aimed at encouragement towards self help and this then was to establish a social or public good in a realm of globalization. This, as it reflects a global market, has elements of marketisation also. Thus New Labour's Third Way did have elements of welfarism and marketisation but more as a ***mix*** it seems than a movement ***beyond***. Notwithstanding, the welfare-to-work strategy was supposed to encapsulate New Labour's vision. The New Deal for Young People was one such programme for the 18-24 year old age cohort started in 1998. The overall objectives of the New Deal involved increasing long-term employability, helping targeted unemployed to find jobs and improving the prospects of staying and progressing in employment (Finn: 2000, p389). Some earlier analysis showed how the New Deal could help young disadvantaged people get a "foothold in the jobs market" (ibid., p392). However, other instances are reported where effects such as that are not given the same credence, and substituted by claims that the programme was more likely to improve "motivation, expectations and the morale of participants" (McQuaid et al: 2004, p393). Moreover, although the overall amount of the 18-24 year old age cohort who were unemployed had, according to further reports, dropped in the early years of the scheme, this was said to have masked the uneven geographical effects of the New Deal, where those areas most in need of employment gained least, and it was unclear how much the upturn in the economy had influenced positive changes (Finn: 2000, p395).

The point about geographical disparities has been taken up by Theodore (2007) who argues that the ideology behind the New Deal, as an active labour market policy based on supply-side measures, is flawed. New Labour's supply-side measure, which aims "to increase the effective supply of labour within the economy" (McQuaid et al: 2004, p393), is Theodore (2007, p928) says, based on the concept of "worklessness", particularly for the long-term unemployed. This concept of "worklessness" is similar to Mead's (1991)[67] "underclass" and posits a deficient attitude towards work (Theodore: 2007, p928). Presumably the argument assumes a lack of motivation among some unemployed. McQuaid, Greig and Adams (2004, p395) maintain that both motivation and compulsion are part and parcel of the New Deal which should overcome this aspect. Nonetheless, Theodore proceeds with his argument about the flawed nature of a supply-side programme, suggesting the necessity of a demand-side approach of job creation and job quality also. The overwhelming need for such is postulated, based on evidence of job deficits in certain geographical areas, and supported by evidence of the need to eliminate in-work poverty rates.

Over zealous acceptance of the idea of worklessness can be demonstrated by referring to the sanctions attached to welfare-to-work schemes from the *Jobseeker's Act, 1995*. This has been brought to the fore in 2013 in **R (on the application of Reilly and Wilson) v The Secretary of State for Work and Pensions**[68]. Sanctions were threatened on some financial aid recipients who were prepared to work but wanted, for example, what they had qualified for as opposed to schemes where they worked in private business without

[67] Reprinted Lawrence M. Mead, "The New Politics of the New Poverty" in *The Welfare State Reader* 2nd Edition edited by Christopher Pierson and Francis G. Castles (Massachusetts: Polity Press, 2006), pp. 107-117
[68] [2013] EWCA Civ 66

extra remuneration, and this accordingly led to the case. Abrams (2010) writes that nearly "one in 10 young people in the UK aged between 16 and 24 are neither working or in education or training". Furthermore, "a quarter of all teenagers embarking on full-time courses in further education colleges in England drop out" (ibid.). Despite obvious concern at statistics like this, in **Reilly and Wilson** the boundary between the education/training/employability link and a refusal to work was blurred.

In the case there was an appeal from a High Court decision, where both Reilly (a recent geology graduate) and Wilson a qualified heavy goods vehicle (HGV) driver had challenged aspects concerning the fact that they had been threatened with sanctions. This was due to the fact that they expressed disaffection with jobs they had been assigned within the Sector-Based Work Academy (SBWA) Scheme or the Community Action Programme (CAP), purported to be under the *Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations, 2011*. In the Court of Appeal, the decision quashed the *Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations, 2011* for being beyond the power granted by the *Jobseeker's Act, 1995* and stated that information given to both appellants did not outline adequately the details with regard to taking the jobs offered or the extent of sanctions that would follow. However, rather than repay all those who had been sanctioned under the related law, the government fast-tracked the *Jobseekers (Back to Work Schemes) Act, 2013* which made the quashed regulations legal. This is an example of the rectifying function of the legislation being used in a dubious fashion for financial reasons. Although, the government is at the time of writing (late 2013) in the course of appealing the Court of Appeal decision to the

Supreme Court, there may be a counter claim against the retrospective use of the 2013 act.

4.1.3 HUMAN CAPITAL INSIGHTS

Two aspects are looked at here. The first looks at training for employment, while the other looks at training in employment. An association between unemployment and deprived areas with respect to available jobs is questioned by Brennan, Rhodes and Tyler (2000) who argue that other factors are also at work. Some suggestions include the housing policy in an area, as well as contextual issues on the part of prospective employees. The issue of mismatch between the expectations of employers and job-seekers has been considered as a cause for the unemployment extent in some geographical contexts (Adams et al, 2002). This does not emphasize the geographical aspects from a spatial context but draws more attention to the employer/job-seeker expectations in employment communications. This would ultimately throw doubt on the wisdom of concentrating efforts on spatial aspects as such which are subordinated to other contextual issues.

A demand-led focus was present in the Ambition Pilots in 2002 which tested “a demand-led approach to job preparation and training” (Leitch: 2006, p128). The New Deal Innovation Fund (NDIF) Round Three which had started a few months earlier and aimed to improve the New Deal for Young People, also aimed to test a demand-led approach and overlapped with the Ambition Pilots. Gore (2005, pp349-350) alludes to some of the problems identified in the NDIF scheme. These included employers (free-riders) who

would not get involved in training but wanted to be able to accept the skilled people at a later stage. In addition, post-employment support from intermediaries was not always welcomed by employers. This highlighted the lack of an internship approach that had been present in the United States model on which the United Kingdom (UK) scheme was based. The internship was a "halfway house" (ibid., p350) where responsibility was shared for the beginning employee between the intermediary who had negotiated the position, and the employer. Moreover, problems also arose with employers being ready to get involved at design phase but changing their minds when the scheme began.

Gore also draws attention to how the demand-led approaches, as he sees it, can fail to acknowledge sufficiently the complex nature of the concept of employability. As the research reports of the Institute for Employment Studies from the late 1990s had drawn attention to the individual attributes of employability and the contextual aspects (ibid., p342) like "labour market demand" and "employer recruitment and selection practices", Gore suggests that geographical limitations of job supply are inadequately tackled in some demand-led approaches. Peck (1999) had already drawn attention to the spatial problem in a very early evaluation of the New Deal for Young People. Theodore (2007) also adds his support to the notion that geographical issues are not properly dealt with by supply-side policies. The argument suggests an inadequate approach in both supply-driven and demand-led policies if they are predominantly supply-side active labour market programmes and emphasize "individual characteristics and responsibilities in isolation from wider labour market factors" (Gore: 2005, p341) or at least do not consider the wider labour market factors strongly enough. The appraisals go on to suggest a place

for demand-side policies which analyse and treat the structural aspects of unemployment in areas with the greatest need of economic development. One suggestion is that training in whatever guise or coercion to become employed cannot be carried through if there are insufficient jobs.

In 2002 the New Labour government initiated the Employer Training Pilots (ETPs) (demand-led for work-based training/workforce development), which had potential to combat aspects of in-work poverty by focusing either on basic skills or National Vocational Qualifications (NVQ) to level 2[69]. As a welfare-in-work, demand-led, nationally designed initiative, it was implemented at local level. It was aimed at low-skilled staff in England and utilized a scheme of work-based training. Partnerships played a key role in the scheme.

Tamkin, Hillage and Gerova (2006, p163), having surveyed aspects of the ETPs within pilot areas, claimed that "the pilots have been successful in getting substantial numbers of employers involved in training low-skilled employees to qualifications." Although Tamkin et al (p163) also claimed that a substantial amount of the employers were the so called "hard-to-reach" employers, meaning those who did not utilize government agencies previously nor did they have any legislative reason for upgrading the skills of their employees, the Audit Office in a report from 2009, on the follow on scheme called *Train to Gain* which began in 2006, recommended "further increasing the focus on 'hard to reach' or other employers who are less likely to train" (DBIS: 2009, p8). The 2009 report questions the value for money of the *Train to Gain* programme because of, for

[69] NVQ Level 2 equivalent to 5 GCSEs at A*- C grade

example, implementation inefficiencies (ibid., p7). On a more positive note, Tamkin et al (2006, p168) report on research that claims that level 3 qualifications[70] are better for economic return to both workplace and employer. There is a similar acknowledgement in the 2009 Audit Office report (p23) and the *Train to Gain* scheme was extended for the 19-25 year old age cohort to first level 3 qualification in April 2009.

In general, since the Leitch Review 2006, a more general skills approach has been founded on a demand-led system. This in turn has influenced legislation in the FE sector, as identified earlier, such as the *Further Education and Training Act, 2007*, the *Education and Skills Act, 2008* and the *Apprenticeships, Skills, Children and Learning Act, 2009*. The Conservative/Liberal government (in office since mid-2010) have stated their wish to "extend social inclusion and social mobility … underpinning every aspect of this purpose is the improvement of skills" (BIS: 2010, p4) and within this strategy is a demand-led system and a statement that they will "no longer impose top down skills targets" and that they will "remove regulations to free colleges to deliver for their local communities" (ibid., p49). The following section will draw some conclusions from the foregoing discussion.

5 CONCLUSION

As a member of the EU, and following for example, the European Convention on Human Rights, England has a certain amount of influence from outside. Yet, what makes the English system so elaborate and challenging for the changes underway at present (a paradigmatic shift that has been described here as a mutation), are its apparently resilient

[70] A levels grade

dichotomy between education and training, its centralized system and arguably resultant change from corporatism, and its change to a demand-led system from a supply driven one which is complicated by geographical and mismatch issues.

The culture of depending on educational legislation to implement policy goes back a long way. There is a zealous interest in changing the legislation also. The institutional function (allows objectives to be realized, ideally through accountability)[71] has been altered quite frequently leading to doubts as to what the real reasons for the changes have been. These have drawn speculation as to whether there was confusion, indecision or just political incumbents trying to make a name for themselves. Amidst this doubt are clear progressions in the post-Fordist society to a post-welfarist agenda of lifelong learning and an emphasis on employability and a link to education.

Nodal discourses can be identified in England. These nodal discourses are discourses that "subsume and articulate in a particular way a great many other discourses" (Fairclough: 2005). The knowledge-based economy is one of relevance to the present discussion. It subsumes within it, inter alia, aspects relevant to inclusion, exclusion, employability, education and training, the economy, globalization, and socio-economic disadvantage. From an analysis of the English scene, there are "imaginaries" as Fairclough (2005) would call them. These are the unrealised discourse objectives. Contestations and debates about the success or otherwise of marketisation policies within a neoliberal environment draw attention to this. Government intervention in the market driven environment through welfare-to-work and welfare-in-work policies that regard human capital

[71] See chapter five on Some key legislative practices for conceptual framework

investment as relevant, demonstrates this. A stated accountability policy and individualization agenda represent the push for the amelioration of inclusion issues.

Wolf et al's (2006) use of a longitudinal study with regard to education policy in the United Kingdom which emphasizes, inter alia, the correspondence between government policy and individual learner wishes, shows evidence of unattained objectives. As Wolf et al (2006, p553) have concluded, despite overall disappointing results in the international data on positive wage gain correlation for those between 25-64 years of age acquiring certified adult educational qualifications, some promising results were implied for those under 30 years of age in the United States. With this in mind we now turn to the next chapter where the United States is discussed.

CHAPTER EIGHT

UNITED STATES

1 INTRODUCTION

The following sections will examine and evaluate the position of the United States (US) with regard to employability. The main focus is from the 1980s, although of necessity there will again, as in the other jurisdictions, be reference to earlier decades. Overall, this will be done from a focused perspective which addresses the comparative insights for Ireland. The focus is on Further Education (FE) for the 16-24 year old age cohort. The evaluation will be tailored towards both legislative and cultural perspectives. The fact that there is again as in the last chapter, a chronological aspect, means that the analysis can be informed by the genealogical method and the descent and emergence of aspects of the discussion as described by Foucault (1984) are critically appraised to expand on the understanding of the power relations, relationships of communication and objectives capacities (Foucault, 1982) as they represent aspects of participation, accountability and human capital. The attempt to extract contributions and potentially transformative ways of thinking for the Irish FE agenda is done by combining critical techniques to complement the genealogically informed analysis which is carried forward from an ideological context perspective in the jurisdiction, followed by a look at relevant programmes before assessing their impact. The analysis will develop from the dual positions of critical inquiry into official FE policy, in the US in this chapter, and a meta-analysis of the literature and the approach to relevant discourse by other academics.

The nature of relevant legislation in the US is vast and it is beyond the scope of this thesis to indicate every available statute, and as a consequence, selectivity is required. Therefore, some pertinent enactments will be described in comparing the legislative and

cultural environment. It should be realized that employing the US as a comparator presents challenges as well as the merits that motivated its selection. The diversity of its territory, particularly with regard to the distinction between the federal and state governments, deserves special recognition. Before going onto the ideological influences on the US in detail, it is important to outline some cultural influences.

1.1 HIERARCHY OF CONTROL

The level of centralisation in the area of education in the US is worth considering. Guthrie and Pierce (1990, p196) have stated that:

> *By virtue of a complicated set of historical and constitutional arrangements, education in the United States is a state rather than a national government responsibility. Thus, even though many national influences came to bear upon US education reform, actual statutory and regulatory changes had to proceed on a state-by-state basis.*

This puts a greater emphasis on the local or decentralised level. However, Mead (1991) writing at the same time comments that:

> *Formerly it was local authorities who grappled with maintaining social order, while Washington managed the economy. But order issues have become federal, because national programmes are involved in all the key areas – welfare, education and criminal justice. It is now the main domestic challenge of presidents, as of mayors, to reduce crime and dependency and to raise standards in the schools.* [72]

Here Mead appears to see a rising intervention by the federal government. The reason for his differing opinion is based on what is perceived by him as a change in the circumstances of society. He sees the rise of an underclass or the inability of some in society to help themselves. The resulting federal government's intervention in, for

[72] Reprinted Lawrence M. Mead, "The New Politics of the New Poverty" in *The Welfare State Reader* 2nd Edition edited by Christopher Pierson and Francis G. Castles (Massachusetts: Polity Press, 2006), pp. 107-117 at p.112

example education policy, is deemed paternalistic, which although seemingly benevolent, may be intrusive. Of interest here is a comparison with Habermas' thoughts on the New social movements. Whereas Habermas argues that these New social movements are fighting for different causes from outside the system, Mead would have us believe that those in an underclass are lacking motivation and even competence and so, are dependent on government policy to force them to commit to society's economic system through, for example, education or employment policy. The status of a right to education in the US constitution may shed some light on the state/federal debate.

1.2 CONSTITUTIONALITY AND A RIGHT TO EDUCATION

It is relevant here to briefly refer to the Constitutional status of a right to education in the US which may illustrate part of the reason for the differing opinions or why Guthrie and Pierce emphasize the state level. The federal Constitution of the US does not establish education as a fundamental right. It could be argued that the Ninth Amendment to the Constitution allows it to become so, in that it states that "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people". Notwithstanding, some court decisions have shown differing degrees of acceptance of the position of education as a right. In **San Antonio Independent School District v Rodriguez**[73] the US Supreme Court did not "of course"[74] accept an explicit right to education in the Federal Constitution. Moreover, the opinion of the Court was continued, "Nor do we find any basis for saying it is implicitly so protected". In **Papasan**

[73] 411 US 1 (1973) See http://www.law.cornell.edu/supct/html/historics/USSC_CR_0411_0001_ZO.html
[74] As per Powell, J.

v Allain[75] the Court as per White J, was more in line with the Ninth Amendment when it said, referring to **Rodriguez**, that

> *The Court did not, however, foreclose the possibility "that some identifiable quantum of education is a constitutionally protected prerequisite to the meaningful exercise of either [the right to speak or the right to vote]."* [76]

Assuming that the right to vote includes an acquisition of enough knowledge using the paraphernalia of election, an element of literacy seems necessary. However, it has not as yet, officially attained that status as a right. With regard to the Fourteenth Amendment of the US Federal Constitution and the idea of not denying "to any person within its jurisdiction the equal protection of the laws", it has been claimed by Beach and Lindahl (2000, p6) that the lack of a right to education at Federal level, leads to possible anomalies at the interstate and intrastate level which cannot be scrutinized by the Federal Courts. The apparent decentralized nature of the provision of education leads to a very varied specification that does appear to highlight the importance of the balancing (rational discussion on distributive and social justice issues) and rectifying (alterations considered after judging whether a statute *can* attain or whether it *is* attaining objectives) functions of the Federal legislation for groups like the socio-economically disadvantaged.

Notwithstanding, individual State Constitutions deal a lot more with the right to education, even though this is done to varying degrees also. This allows some challenging of intrastate anomalies by State Courts. State jurisdiction arises by virtue of the Tenth Amendment of the US Constitution which states that "The powers not

[75] 478 US 265 (1986)
[76] ibid at p284

delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." State Constitutions may also be paralleled by statutes that illustrate and consolidate some aspects of the right. Therefore, whereas Mead (1991) may argue for and see elements of, a paternalistic intervention by the federal government with respect to an "underclass", Guthrie and Pierce (1990) have their point supported by constitutional aspects. The issue of centralisation/decentralisation has manifest accountability ramifications.

A related matter is the idea of mass education at post-secondary level, and the availability of a college education and the subsequent participation issues. One part of the Guthrie and Pierce (1990) discussion was that the US has had a system of mass higher education since the mid 1960s, but organised on "state-by-state lines" (at p199). Aronowitz and Giroux (1987, p171) were of the opinion that the mass education at higher level had led to the "conflation of education and training". Bassett and Tapper (2009, p140) consider the US model of mass or even universal higher education a "legitimate source of ideas for export" with its key characteristics including it being " … local in character, diverse in its purposes and constructed upon a mixture of private and public inputs." (ibid., p139).

Being "diverse in its purposes" is of particular interest. This arises because a pluralist nature can be seen in at least two aspects. The first is the diversity of the institutions themselves and the ability of these institutions to adapt to market forces. The second is an access and participation issue that has, according to some commentators, allowed the position whereby "The academic system was forced to accommodate a constituency

historically considered beyond the pale of the higher learning." (Aronowitz and Giroux: 1987, p170). This is especially noteworthy in view of the historical and cultural turmoil in US society. However, despite the claims of there being a system of mass post-secondary education, it is not without its critics. Karen (2002) has suggested that those from the lower socio-economic groups are not given proper access to the more elite post-secondary institutions. Both Breneman (2008) and Reeves (2007) draw negative attention to the aspects of access, affordability, quality and accountability which the Spellings Report on Higher Education from 2006 also drew attention to. Notwithstanding, although writing a little earlier, Kane and Rouse (1999, p81) submit that the Community College as "an engine of innovation in postsecondary education" serves a "non-traditional" (ibid., p67) college going clientele to a large extent.

Inevitably, with the foregoing discussion, the understanding of FE in the US has to be considered. This understanding is related to what Biesta (2011) calls an educational culture. This culture, he explains, is a learning culture framed by particular purposes. Here one purpose can be described as the credentialised pursuit of employability for the educationally disadvantaged. In the present work, the main US interest is in postsecondary education outside of what is known as the higher education sector in Ireland. For this study, the main source of interest is taken to encompass the Community Colleges and the Vocational Technical Institutes. The United States' system, because it can differ in the terminology used in some instances to that used in the Irish system, is best described from a classification viewpoint. The International Standard Classification of Education, sometimes abbreviated to ISCED, at level 4, is the immediate base of

interest. This fits the description as outlined in chapter two of the present work on further education.

2 IDEOLOGICAL CONTEXT

2.1 SETTING THE SCENE: HISTORICAL INFLUENCES

Clarke (2001) mentions that the US went through two major changes that influenced the position on welfare since the start of the 20th century. This would unavoidably have an influence on the education sector. These were in the 1930s and the 1960s. Even so, he does not diminish the importance of the opposition to welfare by the new right philosophies of the 1980s and onwards in particular, or the influences of the *Personal Responsibility and Work Opportunity Reconciliation Act, 1996* which was reauthorized (continued with or without amendments) by the *Deficit Reduction Act, 2005*.

At any rate, the 1930s saw attempts to alleviate the effects of the Great Depression in the US. President Roosevelt's New Deal put an emphasis on job creation. The *Wagner-Peyser Act, 1933* set the basis of an educational linkage with employment seeking by establishing a national system of public employment offices. The national minimum wage was established by the *Fair Labor Standards Act, 1938* which has been amended many times and also contains aspects relating to youth employment, where rules relating to those over 16 years of age are not as restricted as those under 16 years of age in for instance, the amount of hours worked. It contains provisions "to protect the educational opportunities of minors and prohibit their employment in jobs and under conditions

detrimental to their health or well-being".[77] More modern aspects, which are more in line with the present study, began in the 1960s.

The 1960s saw the next major effort at reform of welfare policy, but unlike the Great Depression, had other stresses and strains at the root of reform. Apart from poverty and unemployment, still prevalent in certain parts of society, other causes of reform included inadequate education and racial tensions. Attempts to remedy the basic education skills that were found lacking in the population were attempted through legislation that was not uniquely related to education. The *Manpower Development and Training Act, 1962*[78] and its 1963 amendments, is a case in point, and it aimed inter alia, to help those who were unemployed due to changes in skill requirements gain the basic education skills they needed to benefit from the Act. This act clearly established a link between employment and education/training.

The *Economic Opportunity Act, 1964* came into being as part of the Great Society reforms. This Act had a section on Adult Basic Education which began what was an upsurge in the importance of such education. Other changes saw the socio-economically disadvantaged gain more in that means-testing was not as harsh as had been, which led to welfare services generally turn from a "conditional entitlement into an unconditional right" (Clarke: 2001, p122). This was the time of viewing disadvantage as cultural deprivation and polices reflected this. The National Advisory Council on Adult Education (1980) in the United States categorized the federal role in adult education into three main

[77] See http://www.dol.gov/esa/WHD/ as viewed 2009
[78] Public Law 87-415 and for example 88-214 its 1963 amendment

areas and claims that it has tended to give priority to educating government employees, manpower development initiatives and literacy and basic skills development.

The targets often tended to be adults who were at the lower educational levels and an indication of this was likely to equate to a functional level in society "of less than high school completion" (ibid., p10). The target adults often had a standard well below this. The National Advisory Council on Adult Education further noted that:

> *By 1964, although the general employment picture was improving, disproportionately high concentrations of unemployment remained for Blacks, for non-English-speaking adults and for the undereducated. Neither manpower development and vocational education programs nor fiscal and monetary policies were effective in altering this situation.*
> (ibid., p9)

This observation shows that for the undereducated and others, some legislative and policy interventions were failing to help them to integrate into society in a way that spread the improving economic environment evenly among the population. There was need for something else to be done but in such a way that enabled the undereducated, but also those within that group that needed basic skills tuition, to benefit. Hence, what is under scrutiny here is the quality of participation and the accountability issues arising in the discourse on employability based on human capital acquisition.

2.2 CHANGING FACE OF EMPLOYABILITY: PARADIGMATIC SHIFT

The mid to late 1960s and the early parts of the 1970s was a time of discourse on at least two paradigmatic shifts in the US. These are illustrated as a move in the economy from Atlantic Fordism (or Fordism) to post-Fordism, and the consolidation of a move to mass postsecondary education in the US. The direction of the latter, it is proposed here,

demonstrated an expansion as a paradigmatic change. While the change to post-Fordism may be regarded as a globalised phenomenon, the move to mass postsecondary education can be discussed here as US specific. The post-Fordist agenda brought with it a different emphasis for education and training. The culture of mass production changed to what Young (1993) refers to as “flexible specialised production”. This would inevitably lead to policy changes as to how education and training could lead to employability.

The push to eliminate the academic/vocational divide so as to raise the level of flexible specialisation as opposed to what Young (1993) called divisive specialisation had influence on cultural capital in the objectified and institutionalised formats in particular (Bourdieu, 1997; O’Brien and Ó Fathaigh, 2005). Kane and Rouse (1999, p64) explain that over “the 1960s, the number of junior colleges more than doubled and enrolments quadrupled”. This clearly exhibits an increase in participation and as mentioned earlier, this would serve a non-traditional clientele. Once the expansion took hold in the cultural psyche of the policy makers, the nascent new Right ideas contained within an emerging post-welfare state were given legitimation within the discourse of increasing educational participation. This legitimation was consolidated because other options were now available to those that sought monetary help from the state. The option was to utilise the education sector to access the employment market. This happened because the expansion of mass postsecondary education as a paradigmatic shift, which began in a time where policy efforts were used to try to establish economic opportunity for the disadvantaged in an environment of awareness of the social requirement for inclusivity, did not have the regulatory power needed to control other policy tracks outside of the education sector.

The direction of expansion was usurped by a nodal discourse in the form of a knowledge economy which represented an economic agenda.

The knowledge economy became part of a post-Fordist agenda because of the need within for a flexible specialisation. Hence, the ideas of human capital as a public and private good were fused for a while. This arose because in theory on the one hand, a pattern of cut back welfare expenditure was available as a public good and on the other hand, a replacement for direct monetary help was available in the form of education for employability as a private good. How attempts to implement the policy trend at this time took place is seen, in for example, the *Comprehensive Employment and Training Act, 1973* (CETA) which again exhibited the perceived education/employability link. CETA was also utilised in attempts at decentralisation of programmes. Guttman (1983, p3) explains however that

> *In its brief history … CETA was amended eight times … The instability of program design resulting from the constant legislative changes was exacerbated by even more severe funding instabilities.*

The instability within CETA led on eventually to the *Job Training Partnership Act, 1982*. Decentralization efforts changed in the 1982 act from geographical, where entire responsibility could be based on local or state, depending on the locality, to functional. The latter gave certain responsibility for design and implementation to local governments but accountability for performance to state governments. The Federal government retained the overall prescription as opposed to assignment of objectives to states while retaining control of expenditure (Guttman, 1983).

In amending the *Wagner-Peyser Act 1933*, the 1982 act consolidated the implied education/training and employment link implicit in the 1933 act. Further influence on the educational agenda in this decade came in the form of the 1983 report *A Nation at Risk* by the National Commission on Educational Excellence. This drew attention to declining standards which would inevitably lead to questions about the competitiveness of the US economy. Guthrie and Pierce (1990) suggest that the elevation of educational standards became one of the main issues on the educational policy agenda at that time. The direction of change brought elements of confusion which is discussed in the next section.

2.3 IDENTIFYING AN IDEOLOGY: CONFUSING DIRECTIONS

The United States (US) has been classed by Myles (1996, p121) as a liberal welfare state. Deacon (2002, p137) describes the term *liberal* from the US literature on welfare as referring to those " … who support higher government spending on welfare and allied programmes and who reject the notion of a dependency culture." Depending on how welfare is viewed, this could seem like a contradictory statement. If welfare is meant to aid the population in a financial manner, it may lead to condemnations of setting a dependency culture. If welfare is extended to include inter alia, education, health and such, then this sets the tone for what retrenchment can involve for the individual and what policies can be expected for the collective element. Where the higher government spending is utilized becomes part of the credibility, or at least understanding, of government ideology and policy.

Relevant to this aspect are the thoughts of Campos (1994) who mentioned at least three types of modern liberalism in postindustrial societies when he critiqued *Political Liberalism* by John Rawls. There he asserts that Rawls's version of liberalism is more like a "secular fundamentalism" and says of this that:

> *The irony, of course, is that in this triumphalist incarnation liberalism can begin to resemble the very dogmatic systems that it once rebelled against. Despite its highly abstract endorsement of moral and religious pluralism, Political Liberalism is ultimately a paean to a secular creed that has within it the potential to become every bit as monistic, compulsory, and intolerant of any significant deviation from social verities as the traditional modes of belief it derided and displaced.*
> (Campos: 1994, p1825)

Applying these thoughts to a moral dilemma contained within the struggle between two different but morally equal cultures in the shape of the disadvantaged and the advantaged, a paradox may arise within the tolerance of liberalism in a system that accepts higher spending by government but places high emphasis on individualism in an attempt to avoid a dependency culture, if aspects like employability are treated in a *blame the victim* manner. Aronowitz and Giroux (1987, p174) draw attention to the latter aspect as related to an American economic downturn:

> *American ideology has always tied the struggle for social justice to economic and institutional expansion … The argument is that only if the system grows can the excluded demand and get access to credential jobs and other cultural capital needed to enter the labor market on a more favorable basis … However, during periods of economic downturn, which in America have been fueled by the rise of conservative ideologies that tend to legitimate exclusion using biological or cultural arguments that place responsibility on the victim, the discourses of exclusion subordinate the discourses of cultural and economic justice.*

In certain instances, the discourses of exclusion want to legitimate that exclusion and encompass a deviation from the tolerance of pluralism in an economic downturn. The

conservative or neo-conservative aspects as identified by Aronowitz and Giroux coincided with liberal tendencies in the US during the 1980s.

While liberalism is associated with giving primacy to the individual, particularly in relation to perceived encroachments of the state, neo-Liberal, neo-Conservative and Radical or far right opinions, influencing the economic, political and moral aspects respectively (Clarke: 2001, p126), confused matters considerably. Moreover, writing in the early 1990s, Mead (1991)[79] expressed doubt as to the efficacy of methods utilized within the realms of conservative and liberal ideology with regard to solving contemporary social problems, particularly with regard to persistent economic disadvantage. This he recognized as caused by a changing political age. He termed the new age "dependency politics" (ibid., p107) and claims that the methods of both liberalism and conservatism failed to adapt to the rise of the underclass. He referred to the culture of poverty thesis to help explain this phenomenon and claimed that the underclass were lacking in motivation and competence to advance their interests. The underclass poverty "… stems less from the absence of opportunity than from the inability or reluctance to take advantage of opportunity" (Mead: 1991, p107) and " … social-reform efforts now focus on welfare, education and criminal justice, not the economy" (ibid., p109). In the latter point, Mead suggests the subordination of the economy in social reform efforts, and saw workfare as a move towards a "new paternalistic social policy" (ibid., p117) and encouraged a support for such, to aid those most in need, to take advantage of the opportunities available.

[79] Reprinted Lawrence M. Mead, "The New Politics of the New Poverty" in *The Welfare State Reader* 2nd Edition edited by Christopher Pierson and Francis G. Castles (Massachusetts: Polity Press, 2006), pp. 107-117

Workfare has various interpretations but may include the requirement that recipients of social welfare only continue to receive payments if they are prepared to participate in schemes which are regarded as work experience, training or more controversially, are regarded as contributing to society. Not all agreed about a subordination of the economy. Jessop (2002) assigns a landmark position to the concept of workfare. In his critique of the work of Poulantzas, Jessop claims that the increase in importance of policies on workfare marked the change from a Keynesian/Atlantic Fordism to a Schumpeterian/Post-Fordist society. He elaborates on this by saying that:

> *… there is a clear trend among states at all levels to subordinate social policy to the discursively constructed "needs" of structural competitiveness and labor-market flexibility. This is reflected in the increasing importance of "workfare" policies – which should not be understood in purely neoliberal terms, but actually embrace all forms of subordination of social policy to alleged economic imperatives.*
> (Jessop: 2002, p204)

Here Jessop sees an opposite trend taking place where social policy is subordinated to economic obligations. This he does while emphasizing the tendency of states, in a general sense as opposed to those within the US, to reduce the welfare rights that were established decades before. Amidst this ideological confusion, it is not surprising that different ideological directions were sought.

2.4 IDEOLOGICAL INNOVATIONS OR THE STATUS QUO?

The Clinton administration from 1993-2001, was known for its Third Way philosophies which was meant, according to Clarke, Langan and Williams (2001, p98), to make it "possible to transcend apparently irreconcilable principles --- going beyond 'left or right', 'state or market', or 'freedom or equality' to a new synthesis". In so doing the Clinton

administration that followed the Republican era of the 1980s and early 1990s promised a change of views and policies. However, the Democratic administration also manifested the influence of the right that stubbornly stayed on beyond the Republican administrations of Reagan and Bush. This included the utilization of the waiver system which allowed stricter rules to be applied to welfare by states, than was present in the Federal legislation. This led to conditions being applied by some states which were encompassed in the concept of Learnfare. It allowed the conditional issuing of Aid to Families with Dependant Children (AFDC) in the case of teenagers who were either dependant themselves or had children in their care. The conditions included aspects such as stopping AFDC allowances to families if the teenagers did not obey Learnfare rules such as attending school. More illustrative of the rivalry between the Republicans and the Democrats was the enacting of The *Personal Responsibility and Work Opportunity Reconciliation Act, 1996*[80] which was enacted in the Clinton era amid this competition. It embodied a welfare-to-work strategy and removed welfare as a right or entitlement which the changes of the 1960s had achieved. Furthermore, it introduced severe time limits on the availability of welfare and "the most controversial feature of the new Act was that it did not require state governments to fund work and training programmes for those who came up against the new time limits" (Deacon: 2002, p96).

With the right to welfare removed and the right to education dubious because of the lack of a constitutional right, having restrictions on claiming welfare brought about by time limits meant that the dominant ideology was moving further away from considerations of a rights based approach to combating disadvantage. O' Brien and Ó Fathaigh (2007, p74)

[80] Public Law 104-193

argue that this is a preferred direction once the alternative of working with as well as for the disadvantaged is the replacement. This means that the accountability for reduced expenditure should be contemplated with the chance for disadvantaged groups to participate. The equality of condition outlined by Lynch and Baker (2005) would have, at least to some extent, work and learning or by implication, employability, at the root of efforts to attain such equality, and partnership to attain the condition would seem appropriate.

When the Clinton era came to an end with its supposed leanings towards a Third Way, the new Republican incumbent showed a distinctive version of Conservativism that could be described as compassionate Conservativism. Here a different form of Third Way politics arose in an effort to inculcate community ideals to certain aspects of policy. Writing in the Washington Post, Milbank (2001) wrote of trying to find a "Catchword for Bush ideology". Because of the difficulty in placing Bush in a particular category, the argument was made that Bush, although a little inconsistent in its ideals, conformed to Communitarianism in a lot of his policy announcements and beliefs. The ideology that is Communitarianism has been described as:

> *... not as specific or as easily recognized as the ideological extremes of free market or statist/socialist positions. Because it seeks a third way and middle space between these extremes, it can, without communicative disruption or cultural exclusion, accommodate a wide variety of understandings about the appropriate role of the state …*
> (O' Sullivan: 2005, p333)

Some of Bush's Communitarian ideals were exhibited by calls for, literacy programs for disadvantaged children, giving localities more power over their schools and education

systems and making it easier to fund religious groups to help the disadvantaged (Milbank, 2001). However, because Communitarianism is a loosely framed paradigm (O' Sullivan: 2005, p334), these ideals are difficult to separate from other political ideologies. Buchanan (1989, p852), while calling it "a vigorous challenge to liberal political philosophy", outlines how communitarian writings appear to make inaccurate claims.

Two such claims about the commitment of liberalism to community and justice are detailed by him and debated. Far from distancing itself from community, he claims that the liberal ideology, while emphasizing individual rights, allows individual rights to protect community from its greatest threat in the form of totalitarianism. Moreover, the exalting of justice as a virtue by liberals rather than a remedy as claimed by critical communitarian writings, is defended by the acknowledgement by Buchanan, of the inevitability of pluralism. He implies that to look at justice as something remedial only needed in defective pluralist societies lacking community, is deficient in rationale and attacks the variety of human existence (ibid.). A further implication here is the defense of so-called disadvantaged culture. McDonnell and Weatherford (2011, p310) point to the fact that some of the Bush administration's education policy was similar to the next administration and discuss how Obama used stimulus measures, normally used in a recession, to achieve reform, a matter now turned to for the latter administration.

2.5 A RECESSION ROUTINE OR RECESSION ROUTE?

Barack Obama took office as President in early 2009 at a time when a financial crisis had begun to influence government policy. One of his first pieces of legislation influencing

employability was the *American Recovery and Reinvestment Act, 2009* (ARRA). This was meant as a financial stimulus package and economic coping strategy to counteract the effects of recession. McDonnell and Weatherford (2011) outline how the Obama administration also used it as a preview to a reform strategy. They contrast the short term coping strategy with the longer term reform strategy. The Act allowed for aid for P-16 education as opposed to just K-12 to aid the competitiveness of the US economy. While K-12 is the traditional learning route to high school graduation, P-16 encompasses a perceived extension to a 4 year college education also.

The basis for stimulus funding that went beyond the coping element of recession countercycling and entered the reform element was reiterated in the document *A Blueprint for Reform (2010)* which outlined the proposed reauthorization (whereby enactments can be revisited and amended) of the *Elementary and Secondary Education Act, 1965.* This showed the clear connection that was expected within the educational culture between secondary and postsecondary education and involved "implementing college- and career-ready standards and developing improved assessments aligned with those standards" (USDOE: 2010, p3). The particular purposes for the educational culture included emphasizing the connection of education and employability as a priority. This human capital agenda had accountability at the core.

In the proposed *American Jobs Act, 2011*[81], there was further evidence of a commitment to community colleges, low-income youth (defined as aimed at those between 16 and 24 years of age) and pathways back to work, including

> *work-based training and other work-related and educational strategies and activities of demonstrated effectiveness to unemployed, low-income adults and low-income youth to provide the skills and assistance needed to obtain employment.*

The proposed *Workforce Investment Improvement Act, 2012* highlighted the market driven "customer choices in the selection of training services" in the purposes of the act. What the Obama administration shows is that despite (or because of) the rhetoric of proposed changes, the education/employability link has gained more impetus as the globalised economy has made the US government realize the slippage in competitiveness that has resulted from the growth in the EU and Asian markets. Despite implications of Third Way politics (due to the similarity with the Bush administration) and recession based impetus spending, a market driven system involving competitive grants and consumer choice is still very much in vogue. The individualism attached to the attainment of credentialised cultural capital still remains as a tenet. However, in the competitive grant systems that came from ARRA 2009, such as the Race to the Top (which will be discussed presently), there is an element of community accountability. With the re-election of Barack Obama from 2013, the ideology is unlikely to change soon.

[81] s1549

3 SPECIFIC PROGRAMMES: LEGISLATIVE AND CULTURAL PRACTICES

3.1 INTRODUCTION: ROLE AND APPLICATION

To influence the employment of individuals and their education prior to and during their working lives, there is a history of Federal legislation. Some indication of the relative importance given to vocational education is seen by the official title that the *Carl D. Perkins Vocational Education Act, 1984* was given on its introduction[82]:

> *A bill to strengthen and expand the economic base of the Nation, develop human resources, reduce structural unemployment, increase productivity, and strengthen the Nation's defense capabilities by assisting the States to expand, improve, and update high-quality programs of vocational-technical education, and for other purposes.*

This Act having become public law in 1984, was reauthorized in 1998 and 2006. Due to legislation like the *Education Flexibility Partnership Act, 1999*[83] which was extended in 2006[84] there are some cases where waivers allow flexibility from federal legislation.

Far from allowing an escape from federal legislation, this is aimed at allowing States to use the best means possible to achieve reforms in their own communities and have stringent reporting and reviewing aspects attached if the State is deemed eligible. The use of waivers is a common element of governance in the US and apart from welfare aspects outlined elsewhere in this chapter, have been used in the *Improving America's Schools Act, 1994* and *Goals 2000: Educate America Act, 1994* section 311, and the *No Child Left Behind Act, 2001* also adds Title IX, Part D to the *Elementary and Secondary Education Act, 1965*, which allows Secretarial waivers. It is important to realize that applications for

[82] H.R. 4164 See http://thomas.loc.gov/bss/98search.html Search term used: Carl D Perkins Vocational Education
[83] Public Law 106-25
[84] Public Law 109-211

waivers will not get approval "unless the underlying purposes of the statutory requirements of the program for which a waiver is granted continue to be met to the satisfaction of the Secretary".[85] Among the type of underlying purposes directly protected would be those expressed in the *General Education Provisions Act*[86] requiring the Secretary to develop steps to ensure equity. Although mentioning any "special needs of students" and overcoming barriers based on "gender, race, color, national origin, disability, and age", the express linkage with the socio-economic disadvantaged is not apparent here. The following sections will be discussed in a chronological order highlighting the ideological basis where necessary.

3.2 ECONOMIC VERSUS SOCIAL POLICY

As mentioned elsewhere in this chapter, the *Wagner-Peyser Act, 1933* set up the nationwide system of public employment offices. The basis for a linkage between education and employment was manifest. The development of this linkage was affected by the standing of economic and social imperatives. This standing varied with the relative position of one with regard to the other in the ideological scene. Where the economic perspective was discussed, two possibilities could be considered. In the first instance there was an individual's job procurement agenda (employability) and in the second there was a nation's competitiveness (globalization). The economic or social basis is not always easy to separate in programmes.

[85] US Code Title 20, Chapter 68, Subchapter 111 at 5891b(c)2
[86] US Code Title 20, Chapter 31, Subchapter II, Part 2, 1228a

General Educational Development (GED) is a historic concept in the US which is still relevant today. The idea which begun in 1942 is what would be regarded as FE in this study. It is aimed at those who do not have a high school qualification but is recognized as equivalent once achieved. It is open in some states to those 16 years and older but this may vary from state to state. In the earlier days of its existence, the availability for war veterans of an education to partake in civil society was of importance. It is difficult to separate aspects of a social agenda from employability in this case. The initiative known as Job Corps has persisted since Title I of the *Economic Opportunity Act, 1964*. In its present embodiment the program aims to help those between 16 and 24 years of age to "get a better job, make more money, and take control of their lives".[87] It is administered by the Department of Labor and allows young adults continue their education, or get a trade, and get an allowance while doing so.

> *Job Corps stands out as the nation's largest, most comprehensive education and job training program for disadvantaged youths … primarily in a residential setting. The program's goal is to help youths become more responsible, employable, and productive citizens. Each year, it serves more than 60,000 new participants at a cost of about $1.5 billion, which is more than 60 percent of all funds spent by the U.S. Department of Labor (DOL) on youth training and employment services.*
>
> (Schochet et al: 2006, p1)

When initiated, the cultural tensions visible in race relations, low education levels and the failure of some monetary and/or some education programmes to work for the socio-economically disadvantaged, put an emphasis on the social priorities. As a programme that has lasted to the present day, it has moved on ideologically with the times. Schochet et al (2006) found that the programme improves youth educational attainment and

[87] See http://jobcorps.dol.gov/about.htm

literacy. Data from 2010 shows that 56.6% of students leaving had attained a GED or high school diploma.[88] Furthermore, 77.5% had achieved placements related to career technical training, were in the military or post-secondary education.[89]

Sticht (2002) writes that the huge growth surge in the Adult Education and Literacy System that took place in the United States, can be traced back to the mid-1960s with the enactment of the *Economic Opportunity Act, 1964*[90] with its section on Adult Basic Education, Title IIB, known as the Adult Basic Education Programs. He writes that:

> *This act, which provided federal laws and funding for adult basic education (ABE), was followed by the Adult Education Act of 1966, which moved ABE from the poverty programs of the Economic Opportunity Act to the education programs of the U.S. Department of Education ...*
> (Sticht: 2002, pp1-2)

The use of education for economic and/or social imperatives can be seen as part of the ideological policy agenda confusion at that time. With the *Elementary and Secondary Education Act, 1965* and the *Higher Education Act, 1965* and the establishing of mass postsecondary education, this policy track continued. Sticht notes that the *Adult Education Act, 1966*[91], which was Title III of an amendment to the *Elementary and Secondary Education Act 1965*[92], "provided the federal organizing framework for the present AELS" (ibid, p2).

[88] Source www.jobcorps.gov/AboutJobCorps/performance_planning/omsdata2010.aspx as seen 10-2-13
[89] ibid
[90] Public Law 88-452
[91] Public Law 89-750
[92] Public Law 89-10

The Adult Education Act underwent amendments and other changes such as the 1970[93] amendment that lowered the appropriate age applicable to eligible adults to 16 years and older from the previous 18 years and older. This change was not an arbitrary enactment but shows aspects of the rectifying function (alterations considered after judging whether a statute *can* attain or whether it *is* attaining objectives) within the educational legislation. The interest groups that pressurized for much of the original aspects and later changes in the legislation, are credited by Sticht (2002, p22) for much of the changes which "reflect the relative influence" of groups like the American Association of Adult Education in the United States of America and the American Association of Adult and Continuing Education. As the 1960s came to an end and the paradigmatic shift from Fordism to post-Fordism began to influence education policy, a different policy agenda would take hold. Throughout the 1970s there was also a growth in influence from the New Right and a move from the welfare state to post-welfarism. These would inevitably influence education and training programs. The social investment state became more prominent.

3.3 CONFUSING THE IDEA OF A SOCIAL INVESTMENT STATE

3.3.1 THE INDIVIDUAL AND THE COMMUNITY

As mentioned in the chapter on the English jurisdiction, the social investment state is envisaged as where

> *The role of Government,… is – by expanding educational, employment and economic opportunity, and by encouraging stronger communities – to enable and empower people to make globalization work for their families and their future.* (Lister: 2003, as reprinted p457)

[93] Public Law 91-230

Despite mention of the word social, it is largely a phrase based on economic competitiveness and globalization albeit with a strong human capital basis in education attached. US policymakers focusing on the concept of the social investment state would illustrate this at this time. As the event of mass postsecondary education had enabled aspects of this policy direction, other aspects needed to be developed after the lacklustre attempts following the *Comprehensive Employment and Training Act, 1973* (CETA). Following the *Omnibus Budget Reconciliation Act, 1981* (OBRA) the federal mandate to reduce welfare dependency led to welfare-to-work initiatives becoming more prominent (Clarke, 2001). The *Job Training Partnership Act, 1982* began a more powerful push towards coordinating training and employment services (Guttman, 1983). Hence employability as a concept took a major leap forward.

The 1982 act placed an emphasis on the concept of decentralisation but did so from a functional aspect as opposed to geographical which CETA had manifested. The 1982 act catered therefore, in theory, for demand-side policies which analyse and treat the structural aspects of unemployment in areas with the greatest need of economic development. This arose due to the design and implementation of any of the programs under the act, being allowed to happen at local level (Guttman, 1983). The *'Tech-Prep' Education Act* within the *Carl D. Perkins Vocational and Applied Technology Education Act Amendments, 1990*[94] gave accentuation to a scheme that was in operation since the early 1980s. The program is described on a government website[95] as:

[94] Public Law 101-392

[95] http://www.ed.gov/about/offices/list/ovae/pi/cte/tpreptopic2.html

> *... Tech Prep is a sequenced program of study that combines at least two years of secondary and two years of postsecondary education. It is designed to help students gain academic knowledge and technical skills, and often earn college credit for their secondary coursework. Programs are intended to lead to an associate's degree or a certificate in a specific career field, and ultimately, to high wage, high skill employment or advanced postsecondary training.*

In the 2010 report[96] from the US Department of Education on Tech-Prep education state grants, the goal is reported as to "Increase access to and improve educational programs that strengthen education achievement, workforce preparation, and lifelong learning". The report states that an 86% target was sought (in 2009) for transition from Tech-Prep to postsecondary education, advanced training, military service or employment. The actual achieved rate was 84%. This programme draws attention to the concept of dual credit whereby students can earn both secondary and postsecondary credits while at secondary level thereby encouraging a route to postsecondary study.

Emphasis on individualism in one instance and community on the other continued throughout the 1990s and into the 21st century. The *Omnibus Budget Reconciliation Act, 1993* made use of the idea of empowerment zones and enterprise communities to target areas of deprivation. This geographical approach was endorsed for targeting of funding towards employment and training activities in the *Workforce Investment Act, 1998*[97] and emphasizes the concept of community. Targeting of funds continued in the *No Child Left Behind Act, 2001* which also had individualistic elements in the shape of mentoring or (to use one explanation of this term) using a caring adult to help with a disadvantaged youth inside or outside employment. Further use of mentoring was utilized in the *Carl D.*

[96] See www2.ed.gov/about/reports/annual/2010report/g2techprepgrant.doc seen on 4-2-13
[97] See for example section 134

Perkins Career and Technical Education Act, 2006. Moreover, the *Fair Labor Standards Act, 1938* as amended by the *Fair Minimum Wage Act, 2007*[98] cemented conditions for youth, and highlighted aspects for the individual and youth as a subgroup of the community.

3.4 SOME KEY SPECIFIC TARGETS

In the US the *Higher Education Opportunity Act, 2008*[99] (HEOA) is a recent reauthorization of the *Higher Education Act, 1965* as amended, and is relevant to FE. In amending by addition, there are some very positive contributions to the amelioration of disadvantage. These take the form of general and specific provisions in terms of their relevance to the 16-24 year old age cohort. For instance, the HEOA[100] adds quite a few new "Additional Programs". An example of one of these programs is "Project GRAD" which aims to help low-income students and improve chances of graduation from secondary school, attendance at postsecondary programs and completion rates at postsecondary institutions.

This is a program that has been in operation since the late 1980s, but due to its success was federally authorized by the US Department of Education in the HEOA. One of the claims from the program is that 51.5% of GRAD students are completing college as against the national average of 26.8% for similar low-income students.[101] GRAD establishes a local board of directors and strong community partnerships, ensuring that

[98] Title VIII, Section 8102 of the US Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007: Public Law 110-28
[99] Public Law 110-315
[100] Title VIII, Section 801
[101] See www.projectgrad.org/about/impact/ viewed 6-2-13

the national model is appropriate to each community's particular needs.[102] Although a non-profit format, the subcontracting of aspects of the programme implies competition and requires the achievement of targets.

The "Jobs to Careers" program aims to develop "workforce bridge programs" and Part P of the new section 851 of the *Higher Education Act, 1965* outlines the prioritizing of institutions for competitive grants who have at least 50% of those who are entering first year that are in need of developmental education in subjects like reading, writing and mathematics skills, to attain college level. One of the purposes of the section is to allow people achieve work progression. What these types of program show is a commitment by the Federal Government to implement legislation aimed at being proactive for low-income students or those needing developmental education and establishing a defined resourcing function (apportioning of direct or indirect funding) that aims at rectifying the imbalances in society.

By the very nature of society in the US, there is an added dimension to disadvantage in that a multitude of cultures need to be catered for and the incumbents have not been slow to set the agenda appropriately by using the nominal function (privileging a group or field by naming) of the enactments, with the HEOA for instance having parts like "Tribal College and Universities; Navajo Higher Education" and sections like "Predominantly Black Institutions". The 2008 Act has a firm usage of phrases related to disadvantaged or at-risk youth as in the Federal TRIO Programs in section 403 for the former, designed to educationally motivate and support these students. Whereas these and other programmes

[102] See www.projectgrad.org/about/history/ viewed 6-2-13

can be used to demonstrate aspects of the social investment state, marketisation has been prominent in policy also. This becomes manifest when the phrases *competitive basis* and *consumer choice* (with the demand-led undertones) are used to issue funds or grants. This has been obvious for quite a while (See for example the *Workforce Investment Act, 1998*). Moreover, the Obama administration used *Race to the Top* and *Investing in Innovation* as reform and accountability measures. The first aimed to encourage the adoption of standards and assessments to prepare students to succeed in college and work and to compete in the globalised market, while the second program aimed to encourage innovation aimed at increasing college enrollment and completion rates. Both programs are competitive in nature in relation to the funds granted to states, local education authorities or non-profit organizations.

4 IMPACT

4.1 SOME COMPARATIVE INSIGHTS

Some of the ideas discussed in this section include accountability, mentoring, targeting, and general policy changes. These will be discussed from the perspective of participation, accountability and human capital. In light of the ideological contexts outlined earlier, the depression era in the US did help to give unemployment and transition from school to work and work progression a thematic status. These became part of the conscious behaviour of government. The economy demanded such. The use of legislation in the form of the *Wagner-Peyser Act, 1933*, sought to raise the thematic status by establishing a nationwide system of public employment offices. The legislation provided the legitimating function (or to give a topic a tangible status where there is a duty on relevant parties to take some measures to react appropriately) by allowing for the establishing of

an Employment Service. The facilitative function (to encompass authority to operate or allow sanction) was apparent in an Act that established a system that survived to be integrated into the One-Stop service delivery system in the late 1990s. The *Wagner-Peyser Act* has been seen to connect the jobseeking process to education in direct and indirect ways by specifying the manner in which allotted funds can be used. A culture has been established that connected or set the basis of a connection between education and employment. This has not diminished in the culture of the US. How this link is perceived has varied and some insights for Ireland will now be discussed.

4.2 PARTICIPATION INSIGHTS

4.2.1 MENTORING AND YOUTH PROTECTION

An area well documented in the research literature is the idea of mentoring or using a caring adult to help with a disadvantaged youth inside or outside employment. Keating et Al (2002) report on the contrasting views from the literature with regard to the usefulness of mentoring and although their evaluations show very promising results, they acknowledge the need for more research. Although the ideas on the success of mentoring may be contrasting, legislation has given permission for funding the process and in so doing gives a strong backup to the theory behind it. The *No Child Left Behind Act, 2001* has a substantial element of its content dedicated to the disadvantaged and in amending the *Elementary and Secondary Education Act, 1965*, makes considerable use of mentoring. Despite the mention of *Child* in the name, this act has substantial services for disadvantaged youth and disadvantaged adults also. For example, in Title 1 of the amended *Elementary and Secondary Education Act, 1965*, known as “improving the

academic achievement of the disadvantaged", Part B, Subpart 3, the William F. Goodling Even Start Family Literacy Programs, has its purpose stated as helping to break the cycle of poverty and illiteracy by

> *improving the educational opportunities of the Nation's low-income families by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified family literacy program, to be referred to as 'Even Start';.*

In Part D Subpart 1 of the same Title, section 1414(c)(12) expects mentoring of youth to be part of a State agency plan if funds are requested from the State Educational Agency. They in turn would receive Federal funds on the basis of a State plan. The *Carl D. Perkins Career and Technical Education Act, 2006*, Title I sections 124 and 135 give access to funding towards mentoring for both State and local consideration respectively.

These enactments show a clear endeavour by those in power, to make adjustments based on research and what is considered to work. However, the basis of mentoring could be deconstructed into a power based relationship. If viewed from the perspective of a learning culture, or the social practices through which individuals learn (Biesta, 2011), the need for further analysis becomes evident. The question arises as to the desired outcome from a mentoring influence. The relation between culture and participation is extended beyond the activity of doing and may extend to the habitus of the individual. If mentoring becomes similar to a learning partnership whereby the participants can mediate and construct the enactment of learning, there is likely to be a more productive outcome. The purposes of the mentoring in education or for employability have to be delineated. This arises as the outcome could be democratic equality, social efficiency or social mobility (Labaree, 1997). Another question arises as to whether or not mentoring

is meant to be a remedy. If it is meant to be, the blaming of the victim has repercussions that do not resonate well with the idea of equality of condition since the power relationship (Lynch and Baker, 2005) is skewed immediately in favour of the mentor. It does seem possible to see mentoring at work as somewhat different to that at school, even if the latter is postsecondary schooling. This arises because the learning of a skill or the perfecting thereof is likely to be based on a method that is not power based but efficiency based. This is where mentoring for employability may have a more productive outcome. It can also be extended from base levels on the employment ladder to higher wage positions.

4.2.2 TARGETING: INDIVIDUAL OR COLLECTIVE?

The issue of targeting for schemes has been acknowledged as a means of dealing with aspects of disadvantage (EDC: 2005, p23). Some legislative programs in the US have shown acknowledgement of this in how programs and schemes for the disadvantaged are managed. As examples will show, the specific objective within the schemes may differ. There may be an indication for a requirement of a specific program of activities, target audience, a waiving of regular rules, aid to families or a changing target population for research purposes.

In the *Higher Education Opportunity Act, 2008*, for instance, it can be seen that while its "Project GRAD", as introduced to the *Higher Education Act, 1965* by the new Title VIII, specifies a purpose of providing support and assistance "to programs implementing integrated education reform" in attempts at improving "postsecondary completion rates

for low-income students", it also mentions the carrying out of activities aimed at "a particular target audience".[103] This emphasizes the need for specification of those at which the program is aimed. This seeks to tailor programs specifically to achieve the purposes.

The *No Child Left Behind Act, 2001* in amending the *Elementary and Secondary Education Act, 1965* has the idea of targeting specific entities within the disadvantaged population throughout. Title I, while aimed generally at "Improving the Academic Achievement of the Disadvantaged", does so in a wide variety of projects. Part A, Subpart 1 of Title I of the amended 1965 Act, deals with "Basic Program Requirements" and is very much concerned with school going children. However, it does mention those to age 21 years old "who are entitled to a free public education through grade 12" in section 1115(b)1(A)i. In that section, the "Targeted Assistance Schools" program which inter alia assists the economically disadvantaged, says that funds must be, in general, used specifically for those identified as "eligible" only. "Schoolwide Programs" in section 1114 may intermingle funds, in general, from various Federal, State and local funding arrangements if not less than 40% of the "eligible" clientele is "low-income". In the "Even Start Family Literacy Programs"[104], it mentions targeting of families in areas of high poverty, illiteracy and unemployment for priority funding. The "21st Century Community Learning Centers"[105] initiative offers families of "schoolwide programs" eligible schools a chance to be "primarily" targeted in the "Local Competitive Grant

[103] Higher Education Act, 1965 as amended by the Higher Education Opportunity Act, 2008 new Title VIII, Section 801(d)2(C)ii
[104] Title I, Part B, Subpart 3
[105] Title IV, Part B

Program" in section 4204. In a slightly different use of the phrase targeting, the *Workforce Investment Act, 1998*[106] mentions targeting of groups for training, to test approaches for the improvement of the "national employment and training system as a whole".[107]

These examples provide evidence of the use of the phrase targeting that is in fact widespread throughout US educational and training legislation. While specifying activities and audiences, the attachment of blame is not part of the process of targeting, or at least not in an overt manner. The process may imply the reaching of certain standards but uses a paternalistic approach. Nonetheless, as Lukes (cited in Crossley, 2005) has stated with regard to his three dimensional approach to power, some matters can be visibly unsuppressed (such as in the paternalistic approach) but be influenced by the dominant ideology all the same with concomitant invisible restraints (no overt blaming but agenda set by those in power). The question then arises as to whether there is a social/moral or an economic imperative. In the present globalised economy, the ideological predominance is an aim for competitiveness. Since the 1983 report *A Nation at Risk* the standards debate has been on the policy agenda. The Schumpeterian/post-Fordist economy has led to those in power emphasizing an economic imperative. Hence, if the most strategic version of participation for inclusion is a working with as well as for the disadvantaged, there is an onus on those representing the socio-economically disadvantaged, to engage. With the alleviation of a legitimation crisis being the likely

[106] Title 1, Subtitle D, section 171(c)(1)(A)
[107] section 171(c)(1)C

viewpoint of those in power when using targeting, the partnership for participation is a basis for a social movement with some leverage.

4.2.3 PARTICIPATION FOR GLOBALIZATION

In September 2008, a bill was introduced in the Senate which was called the *Promoting Innovations to 21st Century Careers Act*. This bill came about because of findings, some of which are stated at the beginning of the bill. These included findings by congress that "A highly skilled and agile workforce is necessary to compete in the global economy" and "High school dropouts have a high social cost". According to a 2006 report for the Bill and Melinda Gates Foundation, "4 out of 10 young adults between the ages of 16 and 24 lacking a high school diploma received some type of government assistance in 2001" and "According to the Education Commission of the States, nearly 60 percent of today's jobs require some training or education beyond high school, compared to just 20 percent in the 1940s". These findings show a concern about the increased influence of the knowledge economy on thinking within the education sector, not least the FE sector. Their findings finish on the positive note for education level increase that "According to a 2003 report for the Educational Testing Service, increasing a country's average level of schooling by only 1 year can increase economic growth by about 5 to 15 percent". This bill was introduced again to congress in 2011.

4.3 ACCOUNTABILITY INSIGHTS

Sanchez (2005) is critical of the US strategy for dealing with the youth disadvantage problem. In utilizing the concept of a macro-social system to identify with general society

and a micro-social system to do the same for a disadvantaged sub-group, he maintains that there is a lack of understanding in some US educational legislation which tries to apply measures in such a manner as if both systems were the same. He further contends that research, in particular that by Hoffman in 2003, has shown that the idea that a student's background and community can be ignored in school, has not only been rejected but that there is a positive relationship between the level of delinquency among youth who fail to succeed in school involvement and the level of male joblessness in the area, indicating a cyclical nature to school failure.

What those in favour of a Federal Constitutional level right to education strive for, is a controlled and fair local level of educational provision where those districts not receiving equal funding can depend on the Federal mandate to exercise their right to contest unequal funding arrangements. It is not the local level as such that is disputed, but the reticence of the US Federal Courts to intervene in State matters. When this is then seen from a position where the macro-social reality is forced on the micro-social environment, unrealistic goals may remain as the objective.

Although writing in 1993 about rural US at-risk students in the 21st century, Pittman (1993) directs attention to the positives for dropout levels, of increasing the breadth of the curriculum. By introducing more vocational aspects, he maintains there is a better chance to find areas of interest for those likely to leave school earlier. This is just as relevant to the transition from school to work and future work progression of an individual as it increases what Pittman calls the academic integration of the student whereby the

usefulness of studies are recognizable and can lead to improved academic performance. Furthermore, he claims that the movement towards increased educational accountability could increase dropout rates. Although accountability is necessary, it is a balanced approach that is needed so that those most in need are not lost for fear of failure or inability to reach standards in inappropriately set examinations.

There are indications of a proactive nature in the utilized legislation in the US. As part of a large scale strategy, the protective nature of the legislation is also implied. This protective function would not have the intention of protecting the ideological hegemony of the powerful classes in the Marxist sense, but of establishing a chance for those disadvantaged to acquire skills which had, for whatever reason, been denied to them. However, the implied protection within the legislation needs more scrutiny. This becomes necessary when set against a backdrop where educational malpractice, in terms of a failure to teach up to a certain standard, is very difficult to litigate. Beginning with what has been called the seminal educational malpractice case by DeMitchell and DeMitchell (2007), this aspect has been litigated unsuccessfully quite a few times. In that seminal case, **Peter W v San Francisco Unified School District et Al**[108] in the Court of Appeal of California, a trend was apparent for future litigation in the area. The facts of this case involved an 18 year old High School graduate who alleged that, although graduating, that he was essentially functionally illiterate and had his ability to earn a living diminished. It was a negligence action alleging inter alia, that he was inadequately

[108] 131 Cal. Rptr. 854 a case from 1976

educated. The Court found that there was no duty of care in this area of negligence as pleaded by the appellant as there was

> *… no conceivable way to measure respondent's conduct, there was no reasonable degree of certainty that appellant suffered injury, and there was no connection between respondent's conduct and the injury.* [109]

Public policy considerations were also acknowledged as playing an important part in this decision because of the difficulty in exposing school systems to this sort of claim. When public policy considerations are given such a prominent position as seen here, it is quite understandable that there is a long history of failed educational malpractice or *failure to teach* cases.

In an article *A Crack in the Educational Malpractice Wall*, it is argued that the level of prescription, or if referring to the conceptual framework in chapter five of the present work, the prescriptive function (removal of choice or preference), may be present in more recent legislation. They note that since, what they call the landmark case of **Peter W,** that:

> *… research on teaching and learning has informed instructional practices and public policy has shifted to requiring accountability for public education … leading to the possibility that the barriers to a lawsuit for educational malpractice now may be crumbling.*
>
> (DeMitchell and De Mitchell: 2007, p34)

Still, some pieces of legislation may not be having the desired effect. Under Title I Workforce Investment Systems, Subtitle B dealing with Statewide and Local Workforce

[109] 131 Cal. Rptr. 854 a case from 1976, See overview

Investment Systems, section 106 of the *Workforce Investment Act, 1998* (WIA) states the purpose as:

> *The purpose of this subtitle is to provide workforce investment activities, through statewide and local workforce investment systems, that increase the employment, retention, and earnings of participants, and increase occupational skill attainment by participants, and, as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of the Nation.*

This shows a strong emphasis on employability and although its implementation if successful could alleviate poverty, its underlying emphasis is on propping up the competitiveness of the economy. This Act was meant to "consolidate, co-ordinate, and improve employment, training, literacy, and vocational rehabilitation programs in the United States"[110]. With the one-stop delivery systems established in the *WIA*[111] to aid this process, it is disappointing to see that the success in helping the most disadvantaged is dubious. In a Government Accountability Report from May 2008, it is reported that:

> *Some college and workforce officials stated that the WIA performance system measures and WIA funding issues created impediments to their workforce efforts. Specifically, these officials commented that some of the measures for the Adult, Dislocated Worker, and Youth programs, such as earnings and job retention, created disincentives to serve more disadvantaged clients because of the difficulty in obtaining employment for these population groups. In serving them, the local workforce area and, ultimately, the state may risk not meeting their performance levels established by Labor and may incur financial penalties*
>
> (Government Accountability Office: 2008, p5).

This problem persists despite previous reports to this effect. It is hoped that a reauthorization process will make headway on this obvious anomaly.

[110] Public Law 105-220 (WIA)
[111] Title 1, Subtitle B, Chapter 3, section 121

When evaluating the position of the disadvantaged in federal legislation, there is evidence of an effort to define the clientele with an element of specificity. The *No Child Left Behind Act, 2001* illustrates what the *Elementary and Secondary Education Act, 1965* enacts with regard to targeted grants for the disadvantaged[112] and a description of the understanding behind this is in Section 1125AA. There is mention of educationally and economically disadvantaged throughout the 1965 Act as amended by the 2001 Act and is analogous to a piece of legislation for the disadvantaged. The WIA goes further in that it provides criteria on which to base the idea of disadvantaged youth and disadvantaged adult[113]. The former gives an indication of the concept involved:

> *... means an individual who is age 16 through 21 who received an income, or is a member of a family that received a total family income, that, in relation to family size, does not exceed the higher of------- (i) the poverty line; or (ii) 70 percent of the lower living standard income level.*

The low-income level is also described. Allocation of State funding is based on up to date census data.[114]

4.4 HUMAN CAPITAL INSIGHTS

The effects of the *Personal Responsibility and Work Opportunity Reconciliation Act, 1996* (PRWORA) have been debated by Deacon (2002) and the particular debate about just how successful its implementation has been, demonstrates the difficulty in assessing its impact. What is strongly supported by some evidence (ibid., p97) is that the amount of welfare recipients fell when the Act was introduced. What is not as clear is whether the improvement in the US economy or the reform itself was responsible.

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[112] Under Title I, Part A, Subpart 2, Section 1125

[113] See Title 1, Chapter 4, Section 127(b)(2)(c) and Chapter 5, Section 132(b)(1)(B)(v)(IV)

[114] Title 1, Subtitle E, Section 182, WIA 1998

What can be said is that the concept of welfare-to-work coincided with the decrease in welfare recipients. The concept was accompanied by time limits for receipt of welfare, and the Temporary Assistance for Needy Families (TANF) which replaced ADFC, continued with school attendance requirements. Its understanding of some elements of disadvantage being related to single mothers was also very distinctive in that the Act eliminated

> … *caregiving as a base for making claims within the US welfare state … TANF provides for a single mother on the grounds that she is a potential worker, not that she is someone with recognized responsibilities for the care of children.* (Deacon: 2002, p98)

Clearly the understanding of disadvantage was pertinent to the Act. Moreover, the "bifurcation" of disadvantage identified by Deacon (2002, p98) which indicated that those that remained in difficulty after the Act, had their circumstances deteriorate further still, can also be utilized to present an argument in favour of adequate educational qualifications. If the welfare reform with its educational training and attendance requirements caused the decrease in welfare recipients and particularly the aiding of economic disadvantage, the argument is made in favour of the legislation. If the improving US economy and therefore employment chances is the cause of welfare savings, the question remains about the employability problems that caused the bifurcation mentioned above.

At the very least what seems apparent is that when the US economy picked up, those with an acceptable standard of education had better chances of employment which amounted to employability in those circumstances. Even so, it would appear that this aspect relating to education credentials is not without debate. Blank (2002), in assessing the welfare

reforms of the mid-1990s and looking at the literature on welfare reforms generally, mentions research on the idea of Mandatory Employment Programs (MEP). These welfare-to-work programs are looked at from the aspect of a comparison between Work-First programs and Human Capital Development (HCD) programs. These either concentrated on job search or job entry in the case of the former or the provision of training and educational opportunities in the latter. Although based on limited studies, the conclusion appears to indicate that while experience in the labour market is as useful initially, the extra qualifications have the advantage in the long run. Blank (2002, p1147) does highlight that a mixed type system might be best where the work element is supplemented with education and training. Other research activities (ibid., p1149) suggest that supplementing the income during work, also shows positive results.

In view of the fact that reduction in welfare caseloads after the 1996 Act (PRWORA) was probably due to a combination of policy and an improved economy, the *Deficit Reduction Act, 2005* continued with the TANF reform. In that instance it capitalizes on the efficiency of the older legislation, which at the very least led to " … moderate declines in poverty" (Blank: 2002, p1159). This contrasts with earlier predictions by Stoesz (1997) that the 1996 Act would likely not attain the "Welfare Behaviorism" it set out to achieve by making the receipt of welfare conditional. He is particularly damning in his opinions about State programs aimed at younger people, for example those under 20, that have been used to encourage attendance at educational institutions. He claims that the concept of Learnfare used from the late 1980s and Learning, Earning and Parenting (LEAP), showed " … the difficulty of altering the apparent intransigent behavior of the poor …"

(ibid., p72) and that the latter had only very limited success. He further demonstrates that other programs like New Chance for 16-22 year old poor young mothers, had perverse outcomes. Stoesz acknowledges that the trick of welfare reform is to catapult welfare recipients beyond the secondary labour market and into the primary labour market where the latter is a job with a career track.

5 CONCLUSION

Decentralisation issues are confusing in the US and exacerbated by a lack of a Federal Constitutional right to education. The federal government pushes an awareness of economic competitiveness but the attempt to allow the individual states partake in the social investment state ideology in a locally relevant manner can lead to anomalies between states and in different areas within states. Also, the move to mass post-secondary education has enabled a turn from the consideration of a right to welfare, to a belief that education has replaced the need for that right because of an argued better opportunity to achieve employability. This was developed from the 1960s when some education programs contained in the *Economic Opportunity Act, 1964*, considered as poverty initiatives, moved to the US Department of Education after the *Adult Education Act, 1966*. The education/employability link had a basis from the great depression in the *Wagner-Peyser Act, 1933*, a conviction that was expanded after the move to mass post-secondary education. The New Right ideologies in following decades have eroded the right to welfare in a post-welfare society and led to discussion as to whether the social or economic imperative is given supremacy in society. The present reality shows a concern

for the competitiveness of the US in a globalised economy allowing the economic aspects a dominant position.

While being conscious that cultures differ and that ideas do not necessarily transpose easily if at all, nonetheless there are some promising aspects from the US to be considered. Some of these, like targeting, have already been acknowledged in Ireland. In a global economy, the education/employability link is likewise accepted by those in power in Irish education circles. Accepting other aspects utilised in the US may just mean a possibility worth researching or developing further. Mentoring, a more balanced accountability track, more vocational aspects related to working life within an FE curriculum or frequent reauthorization of legislation, may all be developed within an Irish context. The combining of aspects of welfare-to-work and human capital may serve a purpose as outlined by Blank (2002). Moreover, the defining of disadvantage more accurately in legislation, however difficult it has been to now as expressed in chapter two on disadvantage, is an accountability measure that is well worth further investigation. Endeavouring to aid an undefined group has its own problems. It exacerbates what Sanchez (2005) outlined in terms of using a macro-social solution to a micro-social problem.

Public policy issues continuously lurk under the surface when it comes to defining the disadvantaged. The macro-social and the micro-social are difficult to acknowledge and separate when it comes to combating disadvantage. What is apparent though is that because of its mainstream understanding, the macro-social element performs better,

contributes more and has more influence within society. However, it is not as simple as working towards the combination of the macro and micro systems. The micro-social system has a culture of its own and needs to be worked *with* as well as *for*. The latter status amounts to the recognition of the dominant ideology being manifest within the macro-social system. The representation of the dominant ideology's distancing from a rights based approach in the US has led to suggestions of a need to work *with* as well as *for* the disadvantaged (See O' Brien and Ó Fathaigh, 2007). Trying to apply measures that combine macro and micro systems as if they are the same, amounts in reality to working *for* the disadvantaged with the misunderstandings and lack of acknowledgement of power relations that are encompassed. The relationships of communication (Foucault, 1982) that represent an appropriate accountability require a working *with* the disadvantaged also so as to enable the overcoming of the less dominant position embodied within the micro-social system. A suitable form of partnership is required.

The EU has developed in recent times using a potentially useful form of partnership. The next chapter will now discuss this position among others within the European Union.

CHAPTER NINE

THE EUROPEAN UNION

1 INTRODUCTION

The following sections will examine and evaluate the position of the European Union (EU) with regard to employability and the relevance of the concept to socio-economic disadvantage. Because of the political reality that the EU is a supranational entity, the discourse will have a unique basis. The focus will be on FE for the 16-24 year old age cohort. Even though the main focus of the study is again from the 1980s, it will be necessary to reference earlier decades for a deeper contextual rationale.

The chapter will detail aspects of participation, accountability and human capital. The focus is on the education/economy/employability link. The fact that there is an investigation through time means that the analysis can again be informed by the genealogical method and the descent and emergence of aspects of the discussion as described by Foucault (1984) are critically assessed to expand on the understanding of the power relations, relationships of communication and objectives capacities (Foucault, 1982) as they represent aspects of participation, accountability and human capital. The analysis will firstly look at the ideological context in the EU with regard to employability which has been largely influenced by neoliberalism. Neofunctionalism and federalism have also played a part with regard to a simultaneous ideology of integration. The diminution of hard law measures (see below) when pressurized by cultural influences of participating states, is an interesting comparative foil to, for example, the cultural strength of pursuing legislative methods in jurisdictions like England. Some relevant education/training programmes will then be discussed. The critique will focus on the fact that soft law measures, or those without a legally binding effect, have dominated the

efforts in these areas. Case law or judicial decisions (Byrne and McCutcheon: 1996, p319), has largely been used to extend the competence of the EU in the education arena. Competence is a term used to describe the level of power available to EU institutions that is granted within the governing treaties. The penultimate section will investigate and critique the impact of the EU influence in the field of employability with a view to highlighting comparative insights for Ireland. A conclusion will draw the ideas of the chapter together. The analysis will develop from the paired positions of critical inquiry into official FE policy, in the EU in this chapter, and a meta-analysis of the literature and the approach to relevant discourse by other academics.

Before moving on to discuss the ideological context, it is worth drawing attention to the following. There is, at least to some extent, a reversing of reasons for juridification in the EU. Within state jurisdictions the argument could be made that cultural pressure is at the root of legal measures. This can be related to the fact that ideology is very much related if not the same as the dominant culture, and legal measures, which can be implied from Habermas' work on juridification (see Edwards, 2004; Crossley, 2005), gives the power to those already in power. In the EU the use of legislation has tended to be in the form of soft law for education programmes. This, because it is not binding, aims to change a culture.

This view is now dependent on the belief that the Open Method of Coordination or OMC ("a new framework for cooperation between the Member States, whose national policies

can thus be directed towards certain common objectives"[115]) is a true deliberation. OMC is based on peer pressure and "takes place in areas which fall within the competence of the Member States, such as employment, social protection, social inclusion, education, youth and training" (ibid). Of course a more critical view would argue that the legislation, whether in the form of hard (binding) or soft law (non-binding), just endorses the dominant cultural ideology which in the case of the EU is arguably based on neoliberalism and the process of integration. The following sections will analyse relevant aspects of employability from an ideological perspective in a chronological manner.

2 IDEOLOGICAL CONTEXT

2.1 INTRODUCTION

The EU has undergone much transformation since the Treaty of Rome in 1957. The present complement of States (28) is likely to change as more States seek membership. Teague (2006) states that the EU's operation in relation to its Member States has largely been described in the literature as being informed by two main paradigms. These are either intergovernmentalism or neo-functionalism, and they operate at both ends of a spectrum. These phrases are used to describe, respectively, how the Member States either protect their national sovereignty or their commitment to integration into EU policy.

Teague (2006) also states that multi-level governance as a term is a more recent trend. This is a sort of hybrid model which has elements of both. He goes on to say that the problems caused by this sort of governance have led to a form of deliberative governance which is gradually progressing. This form of governance is characterized by agenda

[115] See http://europa.eu/scadplus/glossary/open_method_coordination_en.htm as viewed 5-7-2012

setting by the more powerful entities in the EU (including interest groups), a problem solving style of policy making and a cross jurisdictional learning (states learning from other states) (Teague: 2006, pp284-285). The following sections will illustrate some of the policy directions and refer to some of the ideological contexts arising using a genealogical approach.

2.2 OVERVIEW

Cort (2009) charts the development of the vocational training policy and demonstrates a changing ideological framework within the EU. Although complex in terms of the twists and turns within the historical outline, Cort (2009, p103) establishes some of the major attempts by the EU at Europeanization (in the present context, getting nations to follow EU education policy). Having attempted what she calls the community method in the 1960s, which involved undertakings aimed at harmonization of vocational training policy and practice throughout the EU, there was no visible success. This inherently amounted to a rejection of this by the Member States.

The intergovernmentalism that resulted, which intrinsically depended on honest cooperation between the Member States themselves and had no proper mechanisms for gauging success, or accountability, was followed in the late 1970s by the programme method. This involved the use of programmes by the EU which essentially bypassed the national governments by targeting "educational institutions, companies and individuals" (Cort: 2009, p103). In 2000 there came the open method of coordination and, in mentioning this, Cort (2009, p103) follows:

> *… the open method of coordination was introduced, aimed at supporting the Member States to develop their own policies in line with the objectives set at European level.*

The aftermath of these attempts, she claims, sees the present position as a triangle of governance where all three of the aforementioned ideas (intergovernmentalism, programme method and OMC) play a part. New beliefs have surfaced whereby vocational training ideas have been replaced by a convergence of convictions towards Lifelong Learning. Cort (2009), in effect, documents a change of view within the EU from vocational training to lifelong learning. For this study, it is important that the salience of youth employability measures in the EU should be seen among the general attempts at Europeanization. The efforts to help educationally disadvantaged youth, particularly in the FE sector, can easily be hidden within the economic power struggles and any attempts at policy integration.

2.3 EARLY ATTEMPTS AT HARMONIZATION

In Glendenning's (1999) tracing of *European Community Competence in Education*, she states that the Treaty of Rome (1957) "contains no express legal basis for Community involvement in general education" (Glendenning: 1999, p209). She outlines how subsequently, mainly through judicial activism in the European Court of Justice (ECJ), that situation gradually changed. One of the main sparks to this judicial activism was the idea contained within the Freedom of Movement of workers.

As the 1960s progressed, the Commission of the Community expected success for its attempts at harmonization (the 'community method') for vocational training, the latter

which was enacted for under Article 128 of the original Treaty (which was renumbered after Maastricht as 127 and after Amsterdam as 150[116] and 166 after Lisbon). The Commission represents the common European interest and can propose legislation for enactment. Each EU country has a commissioner. Petrini (2004) outlines the attempts by the Commission and suggests some possible reasons for failure in this task. These include the reluctance of some Member States to surrender their national powers to the Community, particularly where they already had well developed vocational education systems, and also a possible weakness within the actual projects put forward by the Commission. He then more definitively opts for what goes deeper than the common vocational training policy itself and says that the real reason was the "omnipresent dialectic between intergovernmental momentum and supranational pressures" (Petrini: 2004, p53).

If culture is seen, as Biesta (2011) suggests, as a manner of acting and being or even a way of life and educational cultures are seen as part of this way of life, it is not surprising that the supranational pressures were resisted. Any resistance to the outside supranational pressures with a proposed concomitant influence on policy goals and processes as mentioned by Dale (1999) from this pressure, puts an emphasis on the connection between culture and the dominant ideology. Thus any attempts at ameliorating youth employability within the education/training sector were subsumed by parallel debates about the integration of EU policy. As the Golden age of capitalism came to an end in the early 1970s (Crafts, 1995) (which coincided with nascent post-Fordist and neoliberal

[116] See Paul Craig and Gráinne de Burca, *EU Law: Text, Cases and Materials,* Second Edition, (Oxford: Oxford University Press, 1998), p. 714

influences) and new crises came about, the new discussions on a common vocational training policy began again in earnest with the Action Programme of 1974.

2.4 ECONOMIC NECESSITY: A WAY FORWARD

In the 1970s, the economic climate deteriorated. Fogg and Jones (1985, p293) document some of the relevant discourse from the mid 1970s to the mid 1980s and they emphasize that co-operation and not harmonization between the Member States became an important process at this stage. This word co-operation can remind us of the term partnership. However, it depends on how this co-operation was sought. It could be sought as a request to go along with the dominant ideology. This would be more like harmonization. It could also mean a joint co-operation where ideas from both sides and agreement on such, were sought.

In 1973 the Commission gave one of its members a portfolio for education, for the first time. That year has a particular significance attached to it as the Janne Report (1973) has been referred to as "the starting point for a common education policy in the European Communities" (Cort: 2009, p94). Very early in that report there was an acknowledgement of the "importance of the links between education and the economy and of the development of systems of further training and permanent or continuous education" (Janne: 1973, p11).

The report goes on to condemn "fragmentary approaches" (Janne: 1973, p11) in an apparent denunciation of the intergovernmentalism that was the preferred option of

Member States at the time. As far as co-operation is concerned, the Janne Report does seem to condemn relations between states and the EU where there is a focus on those states holding sovereignty. If not true harmonization, there is a logical conclusion that there is a call for a co-operation that reflects the fact that, although states and their cultures must be respected, they are nonetheless consenting members of a partnership that has to be respected at the expense of retention of full sovereignty. Still, the prominent recognition within the Janne report of an education/employability/economy link elevated employability as an issue. In the sense that the 1960s saw Europeanization as a dominant and taken for granted theme with national education policies being expected to fit in, the 1970s after the Janne report demonstrates the nascent use of education/training and employability as a tool to guide aspects of Europeanization. However, it was not until 1976 that a "Resolution adopted by the Council and Ministers of Education […] set out the objectives of the first Community-wide action programme in the field of education" (Fogg and Jones: 1985, p293) as a means to aid a form of co-operation.

The mid 1970s was a time when the plight of the young, as they went through the transition from school to work, became a major concern, predominantly due to high levels of youth unemployment. The Community-wide Action programme (1976) illustrated the common concern among Member States in this regard. Cort (2009, p95) suggests that the 1976 Action Programme "opened up possibilities for Community action within national educational institutions" which gave rise to the programme method of Europeanization. This method intended to bypass the State by giving "financial incentives to national educational institutions, creating a European space for

experimentation and the development of practice" (Cort: 2009, p95). Fogg and Jones (1985, p297) in elaborating on the youth situation say that:

> *If the original concerns of Education Ministers were centred on the links between general and vocational education, the quality of vocational guidance and careers education, and the plight of less qualified youngsters leaving school with no preparation for working life, it was clear from the very beginning that any improvements in this area had to be carried out in close cooperation with manpower authorities, employers and trade unions and all the other agencies concerned with vocational training, apprenticeships and placement*

This integrated approach exemplified in, for example, the model of alternance training (alternating periods in education/training centres and the workplace) that became part of the context in the late 1970s, was not forthcoming immediately. This was due to what has been seen as tradition and administrative rigidity, a factor that largely continued until the Commission established a single portfolio covering education, training and employment in 1981 (Fogg and Jones, 1985, p297). This portfolio illustrates that an attempt to amalgamate aspects of employability within general education and training was seen as a way forward also. But as both areas of learning within the EU itself were treated differently in legislation and the fact that in countries like Ireland, cultural boundaries between both sectors were present, there was a barrier that would make integration of learning from this aspect difficult to achieve. However, employability as a concept was established in that it was seen as a way forward for integration of member states with acknowledged economic connections/benefits.

The 1980s confirmed the expansion of neoliberal policies that had largely started in the previous decade and Rothschild (2009, p214) throws some doubt on the successes

claimed for the EU's gradual progression to this philosophy of economics. He claims that a lack of "hard targets and special institutions" (Rothschild: 2009, p220) led to increased levels of unemployment in a period that includes the 1980s. Cort (2009, p96) also sees that the EU of the 1980s was very much influenced by the "tenets" of neoliberalism.

2.5 MORE SPECIFIC EMPLOYABILITY DISCOURSE

After the 1976 and 1982 Resolutions of the Council and of the Ministers of Education meeting within the Council[117] and the Transition I and Transition II successes dealing with the preparation of young people for work and the facilitating of the transition from education to work, "Community policy on vocational training really took off" (Clemenceau: 1994, p14) in the period of 1985-1986. This general environment in conjunction with more specific aspects such as the *Single European Act, 1986*, set the climate of interest in a Human Capital Theory based agenda also (O' Sullivan: 2005, p132). The European Court of Justice (ECJ) made inroads into smoothing the divisions between vocational training and general education in its decisions. The ECJ's role becomes all the more important as its decisions are binding. As employability was seen as important, covering all aspects of education within it boundaries became a prominent part of the discourse.

Some of the 1980s cases that are relevant to this smoothing include **Forcheri v Belgium**[118], **Gravier v City of Liege**[119] and **Blaizot v University of Liege**[120], all of

[117] OJ No C308 30-12-76 (which was extended in 1980 see OJ No C23 30-1-1980) and OJ No C193 28-7-82
[118] Case 152/82, [1983] ECR 2323
[119] Case 293/83 , [1985] ECR 593
[120] Case 24/86 , [1988] ECR 379

which helped extend the concept of education from the original common vocational training policy in Article 128. The first of the three cases involved the cancellation of an enrolment fee that was charged for a vocational training course to be attended by the spouse of a European Community (EC) migrant worker which would not have been charged to nationals. It was the development of the decision in Gravier to include general non-nationals (but EC members) for vocational training that sees these cases relevant. Furthermore, any type of education that prepared a person for a profession, trade or employment, even if it had some general education, was established as vocational training. Moreover, the development of the decisions in Blaizot that accepted vocational training could include university education, demonstrates the progressive smoothing of the division mentioned above.

At around the same time (1989) an innovation as part of a pilot scheme within the framework of the Erasmus Programme[121] was initiated to allow for recognition of study abroad by mobile students. The European Credit Transfer and Accumulation System (ECTS) would be developed a lot more under the Bologna Declaration in the following decade (See Gleeson, 2011). This is the decade to which we now turn.

In summary thus far, employability as a concept is established in a context that links education and the economy. The nascence of criteria for movement of qualifications across jurisdictions is visible. Vocational training and general education divisions although being smoothed, are being approached in a strange manner that still allows the

[121] European Communities, *ECTS User's Guide* (Luxembourg: Office for Official Publications of the European Communities, 2009), p. 7

legislative separation of both forms of learning. Thus, employability as a concept is still fragmented.

One of the more important pieces of legislation in the 1990s was the Treaty on European Union, 1992 or the Maastricht Treaty. By putting Article 126EC into the Treaty, whereby the Community "shall contribute to the development of quality education …", the EU had "a certain express competence in education […] for the first time" (Glendenning: 1999, p245). By getting Member States to accept that general education as well as vocational training was now within the Treaty, it might be regarded as a progressive step towards integration of both forms of learning and of the EU education/training policy agenda. Notwithstanding, more was needed to establish a version of employability that distinguished the process of learning from the product of learning (a point that will be returned to later).

In 1993 the White Paper, *Growth, Competitiveness, Employment: The Challenges and Ways Forward into the 21st Century* was published and a stated basis (p118) of EU influence in the 1993 White Paper is to support national strategies to improve results and the quality of training. The managerialism visible in jurisdictions like England is also seen in the EU where accountability is put forward for the good of the states. The manipulation of motives can also be adjoined to this supposed state support. To illustrate, the White Paper (ibid., pp119-120) also advocated elements of reform of the education system with a greater emphasis being put on human capital throughout an individual's life. Recommendations for developing "human resources throughout people's working

lives" (White Paper, p119) were followed by ideas to combat "unemployment among young people with no skills" (White Paper, p120). The idea was fostered that "people's careers will develop on the basis of the progressive extension of skills" (White Paper, p120).

Despite outlining what Member States could do to aid reform, the stated first objective of Community action was to "develop still further the European dimension of education" (White Paper, p122). In a process similar to Foucault's (1982, p781) "government of individualization", employability is portrayed as an individual responsibility. In a manner similar to the programme method, it largely bypasses state government. By placing an onus on the individual, the collective within the EU supersedes the nation state collective.

2.6 ECONOMIC OR SOCIAL DIMENSION?

Writing in the mid 1990s, d'Iribarne (1994, p4) was of the opinion that the European Commission had tended in the past to deal with a "dual aim". This he claimed was based on the socio-political goal of "supporting the construction of Europe based on a specific idea of democracy", which had ideas on equal opportunities and social exclusion, and an economic goal which was based "on a strongly displayed desire to promote the highest possible level of productive performance" (ibid.). Although swinging back and forth in favour of one and then the other over the years, he saw a clear preference for the economic goal in the White Paper 1993. This was based on prioritizing that economic goal by re-affirming the "right to life-long education and training" (d'Iribarne: 1994, p4). It also suggests a distinct linking within the EU of education/economy and employability.

Brine (2006, p651) does not see the White Paper as prioritizing between these two goals. She elevates the socio-political goal into an equally important position and also does so by highlighting the positioning of lifelong learning in the foreground of EU policy. She goes on to describe how the White Paper of 1993 identified learners in 3 categories. These are the ones with high knowledge skills, those with low knowledge skills who were unemployed, and the young unemployed who were predominantly from the low knowledge skilled. The latter two categories mainly involved the disadvantaged who were in *need of training* (Brine, 2006, p651).

Although the need for training signifies a deficit approach to the disadvantaged, nonetheless, the latter two categories of learner were the cause of a shift in the discourse on Lifelong Learning when a connection was made that related them with the dual society and its related "concepts of exclusion and societal risk" (Brine: 2006, p651), in the White Paper 1995, which incidentally focused on the under 25 year old age cohort (Brine, 2006). This White Paper (1995, p13) also focused ideas on the connection between education and training, and the concept of employability. This latter concept had spilled over from ideas that started in the 1993 White Paper. Goetschy (1999, p130) outlines the progress of ideas within the European Employment Strategy (EES) which in time contained 'employability' as one of its four pillars:

> *The EES was initiated by the Delors White Paper, made operational by the Essen procedure, formalized within the employment chapter of the Amsterdam Treaty and put into practice before the official implementation of the Treaty on the basis of the employment guidelines of the Luxembourg summit.*

This discussion distils down to the link between education and employability and whether it is based on economics or social cohesion or both. Participation, whether guided by the EU or state based, can easily be related to the economic competitiveness agenda through human capital based productivity arguments. The social cohesion facet and the need for a work ethic to carry on a capitalist agenda which allows stability within a given society, is also worth considering. This at the very least asks questions about social cohesion for sustainability if not for moral reasons. Economics and social cohesion seem blended into a symbiotic reality.

2.7 A STRONGER POSITION FOR EMPLOYMENT

Two of the original key objectives of the Essen strategy (1994) were "the development of resources through vocational training" and the "promotion of access to the world of work for specific target groups (young people, long-term unemployed, women)".[122] The Treaty of Amsterdam (1997), which had a new chapter on employment emphasized the "knowledge economy" (Brine: 2006, p652). The Luxembourg Jobs Summit (1997) developed ideas within the Amsterdam Treaty before it was ratified and began the open method of coordination.[123] Brine (2006, p652) describes how two "discursive shifts" took place as a result of the Luxembourg summit. The first relates to disadvantage and she explains that:

> *The White Paper on Growth had identified disadvantage within an understanding of social exclusion, a concept of multi-deprivation which recognised that members of certain social groups were more likely than others to experience disadvantage and deprivation across a range of*

[122] See http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/letter-e.htm accessed 19-9-09

[123] See http://www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/luxembourgprocess.htm accessed 20-9-09

> *interconnected social and economic fields, including education. The Luxembourg Strategy shifted the discourse of 'disadvantage' to the individual, to individual needs and responsibilities, a (re)construction that contributed to the lifelong learner…* (Brine: 2006, p652)

This again shows a neo-liberal emphasis on the individual which tied up with the second part of the shift to employability which she describes as the "ability to become employed, rather than, necessarily, the state of employment itself" (ibid)[124]. Although the individual is advised to go through the process of learning throughout life, there is an attempt within the phrase *lifelong learning* to avoid the cultural differentiation between vocational training and education. The process may be recommended but the product is largely ignored as if the smoothing by the ECJ and the Maastricht Treaty has closed the divide.

From a practical viewpoint, the migration to the concept of employability could be seen in the second phase of the Leonardo da Vinci program. This was supported by a right of "access to vocational and continuing training" at the start of the 21st Century when the EU Charter of Fundamental Rights 2000[125] was introduced. Although it did not immediately attain legally binding status, the Lisbon Treaty, passed by Ireland on October 2nd 2009, made it so. The Charter "sets out in a single text, for the first time in the European Union's history, the whole range of civil, political, economic and social rights of European citizens and all persons resident in the EU".[126] The European Convention on Human Rights refers only to civil and political rights.[127] The Right to Education in the EU Charter of Fundamental Rights 2000 is contained in Article 14. Mentioned in passing above, the 1999 Bologna Declaration "led to the adoption of a

[124] Present author's italics
[125] 2000/C 364/01 at Article 14(1)
[126] See http://www.europarl.europa.eu/charter/default_en.htm# accessed 5-10-09
[127] See http://ec.europa.eu/justice_home/unit/charte/en/faqs.html#7 accessed 5-10-09

common model for higher education curriculum" (Gleeson: 2011, p1). The ECTS "has become a central tool in the Bologna Process which aims to make national systems converge".[128] As the 21st century began, thoughts of a similar system for vocational training began to arise. However, this very thought underlines the vocational training/education divide yet again.

The Lisbon Strategy (2000) is a ten year scheme launched by the European Council and its origins were based on three pillars. The first two, the economic and social pillar, were followed in 2001 by the environmental pillar.[129] A knowledge-based economy and social inclusion were to the forefront. This highlights some evidence for the symbiotic reality mentioned earlier between economic and social cohesion policies. The use of knowledge is obvious in the Copenhagen Declaration which started the Copenhagen Process. Both the Declaration 2002 and the Council Resolution 2002[130] on the "promotion of enhanced European cooperation in vocational education and training" refer to lifelong learning and employability. They do this in a context that also refers to social inclusion.

The development of the European Credit System for Vocational Education and Training (ECVET) started in 2002 after the Copenhagen process.[131] The Copenhagen process itself is reviewed every two years and "was developed within the perspective of lifelong learning".[132] The latest review took place in Bruges[133] in December 2010 with a similar

[128] See http://ec.europa.eu/education/lifelong-learning-policy/ects_en.htm accessed 14-2-13
[129] See http://europa.eu/scadplus/glossary/index_en.htm
[130] Council Resolution 19 December 2002 2003/C13/02
[131] See http://ec.europa.eu/education/lifelong-learning-policy/ecvet_en.htm accessed 14-2-13
[132] See http://ec.europa.eu/education/vocational-education/doc1143_en.htm accessed 5-10-09
[133] ec.europa.eu/education/lifelong-learning-policy/doc/vocational/bruges_en.pdf accessed 25-7-12

emphasis on lifelong learning, employability and the disadvantaged. The Maastricht Communiqué, 2004 gave priority to the ECVET, the basis of which is

> *a learning outcomes approach resulting from the interface between educational/pedagogical logic and the labour market; the need for partnerships; and the issue of mobility set in the wider context of the enlargement and enrichment of the learners' knowledge, skills and competence across professional/vocational specialisation and across levels of education and training systems* (Cedefop: 2010, p.10-11)

The Lisbon Strategy was reviewed in 2005 and its focus was altered to reflect growth and jobs (Rodrigues, 2006, p351). While this may at first appear to be a different focus, it would on greater scrutiny be just as easily looked on as a more intense focusing on human capital and a more elevated position assigned to it. The term employability having been present, for example, in the Draft Presidency Conclusions of the Lisbon European Council 2000[134] is more implied than direct in the Presidency Conclusions from the Brussels Council 2005[135]. There is reference in the latter of developing

> *research, education and all forms of innovation insofar as they make it possible to turn knowledge into an added value and create more and better jobs.*

This is laid down having earlier referred to the "optimisation of human capital". This envisages the tying of employability into a form of social investment. A number of aspects are worth noting in this. The EU would appear to be moving on from emphasizing employability as a concept on its own. This it does by establishing it as a partner of social investment. The warning about being employable and ready to be employed has moved on, so that those who have not educated themselves are shown that

[134] See http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/00100-r1.en0.htm, at point 29
[135] 7619/1/05 REV 1 at 10

they will be left behind. The demand-led basis of industrial training puts the onus on the individual to come up to standard.

2.8 CONSOLIDATING LIFELONG LEARNING AND ACCOUNTABILITY

The change of emphasis following the review of the 2000 Lisbon Strategy shows indications of agreeing with aspects of the debate outlined by Gosta Esping-Andersen (1996, p259) when he wrote about the "trade-off between jobs and equality". He indicated how "that 'lifelong learning' and 'social investment' strategies offer a possibly positive-sum solution to the trade-off" (ibid., p259). He suggested two reasons for this. The first is that by spreading training throughout the community, it allows an eventual elimination of low-skilled citizens. The second he submits is based on the idea that even if people have to work in low paid jobs for a while, it need not be a life cycle trap if training is provided.

The EU in its review of the Lisbon Strategy 2000 does not lose its striving for lifelong learning when it changes its focus to jobs and growth. For the Lisbon 2000 European Council, a strategic objective was for:

> … *the European Union to become the world's most dynamic knowledge-based economy, which includes key elements such as the development of lifelong learning for everyone.* [136]

Following that, in a Recommendation by the EU Commission for a Council Recommendation in 2004[137] on the implementation of Member States' employment policies, there was acknowledgement of the plight of disadvantaged groups in ideas such

[136] Council Resolution on lifelong learning 2002/C 163/01 at p. 1
[137] See COM(2004) 239 Final

as: avoiding the emergence of two-tiered labour markets; building on the chance for citizens to remain and progress in work; developing policies to increase labour market participation of those at a disadvantage; investing in human capital; and improving access to lifelong learning for the low-skilled workers.

This leaning towards lifelong learning was also evident in the 2005 review of the Lisbon Strategy when the Presidency Conclusions outlined that "Human capital is Europe's most important asset […] Lifelong learning is a sine qua non if the Lisbon objectives are to be achieved …".[138] In both the 2000 and 2005 versions of the Lisbon Strategy, the Open Method of Coordination plays its part. This identifies common objectives, translates these objectives to national policies while being adapted to the individual Member States and details a monitoring process to arrive at, inter alia, aspects of best practice (Rodrigues, 2006, p351). The Open Method of Coordination not only sees a place for participation but by specifying a monitoring process, there is an element of accountability. Both participation and accountability are mentioned in the principles of good governance outlined by the Commission (2001). The Employment Guidelines as outlined by the Commission (2005) after the review of the Lisbon Strategy place an emphasis on the "investment in human capital". This should be done to create a demand-led system (ibid., p33).

Whereas member states were encouraged to engage with the ECTS and the ECVET in terms of learning outcomes, the Recommendation of the European Parliament and of the

[138] Presidency Conclusions 7619/1/05 at 34

Council (2006)[139] with regard to key competences for lifelong learning takes an interesting turn. As Gleeson (2011, p4) explains, for educational programmes to comply with ECTS, the learning outcomes should be expressed in terms of knowledge, skills and competence. In a similar fashion, ECVET is also based on learning outcomes with a similar triumvirate (Cedefop, 2010). As Halász and Michel (2011) describe, although

> *traditionally, the notion of competence has applied to vocational education and training (VET) because of its direct link with the labour market and of the description of skills and attitudes required for some specific tasks or responsibilities* (ibid., p289)

they go on to describe how competence has become part of the general education vocabulary at all levels.

The European Qualifications Framework (EQF) Recommendation approved by the European Parliament and the Council in 2008 again emphasizes learning outcomes. The significance of learning outcomes is that the focus is shifted from the learning inputs like length of a learning experience or institution attended.[140] What is interesting about the emphasis on learning outcomes on the one hand and key competences on the other is the lack of clarity of terminology usage in the discourse. For instance, the European Centre for the Development of Vocational Training (Cedefop) describe competence as the "ability to apply *learning outcomes*[141] adequately in a defined context (education, work, personal or professional development)" (See Halász and Michel: 2011, p292). Learning outcomes are described as seen above, in terms of knowledge, skills and competence (Gleeson, 2011). Competence is thus used in the description of competence.

[139] OJ L 394/10, 30-12-06

[140] See http://ec.europa.eu/eqf/about_en.htm

[141] Present author's emphasis

The trend of focusing on lifelong learning, human capital, employability, educational disadvantage, social cohesion and the open method of coordination has continued throughout the first decade of the 21st Century and beyond. This is demonstrated in the Council Conclusions[142] (2009) on a "strategic framework for European cooperation in education and training". These conclusions have the Copenhagen Process and the Lisbon Strategy as relevant to the strategic framework. Accountability through quality driven initiatives is to the forefront.

Participation for the cohort including 18-24 year olds is driven by a European benchmark. This aims at having less than 10% in the cohort category of "with only lower secondary education or less and no longer in education or training" (ibid) by 2020. While aiming to stimulate employment, especially for young people, the statement of the members of the European Council[143] (2012), although respecting the culture of individual member states, expects them to "develop and implement comprehensive initiatives on employment, education and skills". This may include the European job mobility portal which facilitates cross-border placement of young people. The European Council clearly still sees an education/employability link and encourages the member states to concentrate on the youth of the country. The next section will critically analyse facets of relevant EU programmes.

[142] OJ C 119, 28-5-2009

[143] See http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/127599.pdf (from 30-1-12)

3 SPECIFIC PROGRAMMES

3.1 LEGISLATIVE/CULTURAL INFLUENCES: ROLES AND APPLICATIONS

3.1.1 SOME PRELIMINARY THOUGHTS

The use of policy paradigms as an interpretive framework in briefly discussing educational policy is useful here. The original attempts at harmonisation by EU institutions must be seen as attempts to change policy goals and policy processes. Therefore the attention to paradigmatic change becomes an issue. While the chapter on England discusses a paradigmatic mutation, and the chapter on the US discusses a paradigmatic expansion, in the case of the EU's attempts at harmonisation, it is what was perceived as happening that is the basis of discourse. The EU's effort at harmonisation and what would be the subsequent effects on state culture and tradition was arguably seen by states as an attempt at paradigmatic rupture (O' Sullivan, 1993).

This can be argued on the basis of the fact that states saw the infiltration of the EU in policy goals and processes as something that would lead to uncertainty as to how matters would progress from then on. This was claimed to be something that could lead to a diminution of control over the cultural and traditional sovereignty issues over which state authorities felt they needed control. Hence, the second relevant paradigmatic change came in the form of general resistance. While the relevant paradigm in any given state at the time of the early attempts of harmonisation was not affected to a major extent, the resistance that led to intergovernmentalism between states could have led to some change in the individual state paradigms. O' Sullivan (1993) describes this by saying that

> *Resistance or threat is unlikely to leave a paradigm unaffected. Sometimes filtration occurs as when elements, particularly the less discordant, are incorporated into the dominant paradigm.* (Ibid: p268)

The filtration of ideas has come in the form of the Open Method of Coordination (OMC). Although OMC is a form of intergovernmentalism, individual states have aspects of accountability built in to their participation that controls aspects heretofore left more to state entities themselves. If one uses Bourdieu's concept of field as "a structured space of forces and struggles" (O'Brien and Ó Fathaigh: 2005), it is possible to see within the OMC a situation where a nodal discourse such as lifelong learning can be developed to establish discourses on such concepts as employability, participation, accountability and human capital. This overlaps with another nodal discourse on the knowledge-based economy. The nodal discourse represented by the knowledge-based economy includes aspects relevant to inclusion, exclusion, employability, education and training, the economy, globalization, and socio-economic disadvantage. Where the nodal discourses meet is where the education/economy/employability link is most evident.

Dale's (1999) mention of a filter to control ideas from outside is diluted somewhat if soft law, although not legally binding, becomes politically binding. The Principle of Subsidiarity "ensures … that constant checks are made to verify that action at Union level is justified in light of the possibilities available at national, regional or local level"[144] and may counteract some elements of this but proper participation would also expect to counteract negative elements of infiltration.

[144] See http://europa.eu/legislation_summaries/glossary/subsidiarity_en.htm as seen 2-11-12

3.2 EDUCATION AND VOCATIONAL TRAINING:EQUALITY OR RHETORIC?

Pépin states that

> *The absence of a legal basis for education in the Treaty led to difficulties in the implementation of the first action programme in 1978-1980. The need to show the link between the actions proposed by the European Commission in this field and the objectives pursued by the Treaty of Rome was also one factor which led to a rapprochement between education and vocational training policy at Community level.* (Pépin: 2007, p124)

Subsequent to the judicial activism in the ECJ which culminated in the decisions of the mid 1980s outlined earlier (See Gravier above), the Commission proposed the Comett programme which led to the Council Decision[145] (1986) adopting that programme "on cooperation between universities and enterprises regarding training in the field of technology". Between 1986 and 1990 "more than 1300 projects were launched throughout the European Community … more than 6000 enterprises, 1500 universities and 1000 other types of organization were involved in carrying out the Comett 1 projects".[146]

The Erasmus programme dealing with aspects such as student mobility in higher education (HE) (Ertl and Philips, 2006), began in 1987. There has been close to three million students participate since then.[147] Other programmes included the Petra programme which began in 1988 and was, under Article 1 of the relevant Council Decision[148], to establish a

> *programme … to support and supplement, through measures at Community level, the policies and activities of the Member States in doing*

[145] 86/365/EEC
[146] See http://europa.eu/legislation_summaries/education_training_youth/vocational_training/c11015a_en.htm
[147] See http://ec.europa.eu/education/lifelong-learning-programme/erasmus_en.htm
[148] 87/569/EEC

> *their utmost to ensure … that all young people in the Community who so wish receive one year's, or if possible two or more years', vocational training in addition to their full-time compulsory education.*

One of the major objectives of the programme, which carried on to 1994, was to "reduce the number of young people who enter the labour market without a basic qualification"[149]. While some of the programmes outlined above were aimed at HE, there is clear room for FE, as outlined in chapter two of this study, within this policy position on Petra. The provision of a *basic qualification* as an objective suggests that employability, for those that might be regarded as educationally disadvantaged, is a priority.

Comett II ran from 1990-1994[150] and the final evaluation report[151] states that over that period, some three thousand projects were accepted which led to "the creation of over 200 University-Industry Training Partnerships covering nearly all European regions as well as many technological and sectoral areas".[152] Most of the Comett programme, when it finished in 1994 was subsumed into the Leonardo da Vinci programme. The Force[153] programme, which began in 1991 and ended in the same year as Comett aimed at the "development of continuing vocational training in the European Community". Clemenceau (1994, p15) wrote with regard to the programme that the "development of continuing training and training plans and programmes in companies is the goal". Force as a programme "provided the first testing ground for a collaborative approach to the

[149] See europa.eu/legislation_summaries/education_training_youth/vocational_training/c11012b_en.htm
[150] 89/27/EEC
[151] COM(96) 410 Final
[152] See http://europa.eu/legislation_summaries/education_training_youth/vocational_training/c11015b_en.htm
[153] 90/267/EEC

development of Community continuing vocational training policy and practice."[154] The final report[155] (1997) highlighted some of the adjudged strengths such as the innovations that occurred "in the way training was delivered … in particular through a new focus on work-based learning"[156]. Moreover the report highlighted the under-representation of "beneficiaries with labour market disadvantage" (ibid.).

Following the increased salience of lifelong learning and the individualization of employability within EU policy, particularly after the 1993 White Paper, there is accordingly, evidence of a growing avoidance of the collective even though interest in inclusion as a proclaimed policy goal was developing. There is also evidence of a failure to acknowledge that manipulation of circumstances does not amount to reality. To illustrate, when the original Leonardo da Vinci programme was being implemented, at approximately the same time, a Council Resolution[157] on the "quality and attractiveness of vocational education and training" came into effect. It asserted that "Increasing complementarity and cross-fertilization between general education and vocational training are now an established fact"[158]. It established that it wanted young people and young adults to get a chance to be educated in an environment where vocational training was no longer regarded as a second rate alternative.[159] In view of this apparent failure to accept the familiar national cultural divide between education and vocational training, it is plausible to envisage that differing educational cultures (Biesta, 2011), which are more

[154] See europa.eu/legislation_summaries/education_training_youth/vocational_training/c11016_en.htm
[155] COM (97) 384 final
[156] See europa.eu/legislation_summaries/education_training_youth/vocational_training/c11016_en.htm
[157] Council Resolution, OJ C 374, 30/12/1994 pp. 1-4
[158] ibid at introduction point 2
[159] Council Resolution, OJ C 374, 30/12/1994 pp. 1-4 at Principle 5

collective than individual, might also be neglected. This could lead to poor relative participation rates and under-representation like that mentioned above.

In the case of the Leonardo da Vinci programme, the Council Decision[160] of 1994 establishing the first phase of the programme for 1995 does not refer to employability. The Socrates first phase 1995 had the objective of contributing to "the development of quality education and training and of an open European area for education"[161]. The programme framework established the Comenius (school education) programme and subsumed Erasmus.

Dehmel (2006, pp52-53) suggests that the 1993 White Paper on *Growth, Competitiveness, Employment* and the follow on 1995 White Paper on *Teaching and Learning*, which she implies saw lifelong learning as having a central role as a strategic idea to be used to cope with social and economic challenges, were influential in the Leonardo da Vinci and Socrates framework programmes. The 1999 Council Decision[162] (in the same year as the Bologna Declaration) establishing the second phase of the Leonardo da Vinci programme which began in 2000, states that the objectives of the programme include to:

> *improve the skills and competences of people, especially young people, in initial vocational training at all levels; this may be achieved inter alia through work linked vocational training and apprenticeship with a view to promoting employability and facilitating vocational integration and reintegration;* [163]

[160] 94/819/EC
[161] See http://europa.eu/legislation_summaries/other/c11023_en.htm
[162] 99/382/EC
[163] 99/382/EC at Article 2(1)a

The Socrates second phase[164], which began in 2000 had the aim of promoting a "Europe of knowledge" and encouraging "lifelong education".[165] This led, within the framework of Socrates II, to Grundtvig (adult education).

One of the most important initiatives in terms of education and training took place in 2000 also. The European Commission's *Memorandum on Lifelong Learning* was presented in October 2000. As well as starting a European-wide consultative process and debate, the Memorandum contained a definition of lifelong learning which was said to include "all purposeful learning activity, undertaken on an ongoing basis with the aim of improving knowledge, skills and competence" (CEC: 2000, p3 and CEC: 2001, p35). O'Brien (2013, p1) states that the message on " 'innovation' in teaching and learning" within the Memorandum is "rooted in neoliberal meanings, standings and practices". Furthermore, the

> *'innovation' message is connected to: a paradigmatic shift to outcomes-based education … increased (centre-right) politicization of education; … the dominance of business/enterprise interests; … and wider socio-cultural 'acceptance'* (O'Brien: 2013, p1)

Following the consultative process and criticism (within OMC) of a failure to substantiate a claimed dual objective in the Memorandum of active citizenship and employability (the claimed symbiotic reality of social and economic policy coexistence) because of a predominance of interest in the latter, a renewed set of objectives and definition of lifelong learning surfaced.

[164] 253/2000/EC

[165] See europa.eu/legislation_summaries/education_training_youth/general_framework/c11043_en.htm

This was evident in the Communication from the Commission *Making a European Area of Lifelong Learning a Reality* (2001). The objectives were reiterated as personal fulfilment, active citizenship, social inclusion and employability/adaptability (CEC: 2001, p9). The definition of lifelong learning was officially extended to

> *all learning activity undertaken throughout life, with the aim of improving knowledge, skills and competences within a personal, civic, social and/or employment-related perspective.* (CEC: 2001, p9)

Despite the acknowledgement of social inclusion and employability, the rhetoric is a shallow attempt at procurement of equality of condition. The aim of improving implies the status quo or a one culture format of learning and still fails to engage with different educational cultures.

The following series of events is also noteworthy. Whereas this discourse at first seems to show an acknowledgement by the Commission of the faults within the Memorandum (2000), the report from the Education Council to the European Council *The Concrete Future Objectives of Education and Training Systems* (Feb 2001) took note of the Memorandum (2000) in deliberations (Council of the European Union: 2001, p4) and a follow-up to this report led to the Education and Training 2010 (E & T 2010) programme adopted in 2002. Furthermore a Council Resolution[166] from June 2002 on lifelong learning welcomes the Commission's Communication *Making a European Area of Lifelong Learning a Reality* (Nov 2001) even though that communication readily states that the Memorandum's six key messages "which were at the heart of the Memorandum" (CEC: 2001, p15) have only been "modified slightly" (ibid). This raises concerns about a

[166] OJ C 163, 9-7-2002, pp1-3

fault line running through some EU initiatives based on the Memorandum if O'Brien's (2013, p3) assertions, that the strategy within the Memorandum has an "insubstantial analysis of education as a field", are taken into consideration.

3.3 MORE RESOLUTE EFFORTS AT INTEGRATION

Following a joint interim report in 2004, *Education and Training 2010: The Success of the Lisbon Strategy Hinges on Urgent Reforms* by the Council and Commission, there was a plea for more resolute efforts "to carry forward the Lisbon strategy" (Council: 2004, p22). The three strategic objectives set in the E & T 2010 (2002, p3) were "improving the quality and effectiveness of education and training systems in the EU" which resonates with the neoliberal aspect of *accountability*, "facilitating the access of all to education and training systems" which has clear *participation* goals and "opening-up education and training systems to the wider world" which relates *human capital* to the aspect of globalization (Council, 2002).[167] The 2004 joint interim report stressed the E & T 2010 objectives again and stated that they "remain fully valid for the years ahead" (2004, p22). A lever in the pursuit of the objectives should be to "establish *at last* a Europe of education and training" (ibid., p22). Moreover, the reiteration of the need to develop human capital for "social cohesion and competitiveness in the knowledge society" was mentioned in the discussion of key areas for reform and investment (ibid., p22).

Although Ertl and Philips (2006, p79) claim that the Socrates and Leonardo da Vinci framework programmes were set up "as a means to preserve, consolidate, and focus most

[167] OJ C 142/1, 14-6-2002

of the actions and objectives of their forerunners", they also identify problems attached. These include "major structural problems" (ibid., p80). These problems include the legal foundation which separated education and vocational training, because of different Treaty articles, despite aiming for lifelong learning as a guiding principle. Although the claim is that the "limited success and impact" (ibid., p80) of the first phase of Socrates and Leonardo da Vinci was attributed to this separation, the second phase did not change this aspect.

In the 2004 joint interim report, the Council and Commission underlined the importance of the "next generation of education and training programmes" (Council: 2004, p6). When the European Youth Pact (2005) was adopted by the European Council in March 2005, it was to tie in with "the European strategies for employment and social inclusion and the "Education and Training 2010" work programme"[168]. As an objective the aim was to "achieve consistency of initiatives in … different areas" (ibid.). In the Communication from the Commission to the Council on European policies concerning youth (2005)[169] on, inter alia, the European Youth Pact, OMC is highlighted. Some relevant statistics are also indicated:

> *Transition into the labour market for young people is difficult, with youth unemployment more than double the overall rate within Europe (17.9% for under 25s, compared with 7.7% for 25 year-olds and up.). Young people are particularly at risk of poverty (19% of 16-24 year olds, compared with 12% of 25-64 year-olds).* (ibid)

Within this understanding and in line with the "Commission's Strategic Objectives for 2005-2009" (ibid), the European Youth Pact was adopted with strands including

[168] See http://europa.eu/legislation_summaries/education_training_youth/youth/c11081_en.htm
[169] Com(2005) 206 Final

employment, integration, education, training and mobility being brought to prominence. Some of the guidelines particularly pertinent for youth that are mentioned are, establishing a life-cycle approach to work to include "a renewed endeavour to build employment pathways for young people", and "ensuring inclusive labour markets for job-seekers and disadvantaged people" and "expansion and improvement of investment in human capital".

The Lifelong Learning Programme (2007-2013) was put forth by the Commission in 2004 and when established under the Decision of the Council of the European Union and European Parliament (2006) "integrates the existing programmes: Socrates (for education, including Erasmus), Leonardo da Vinci (for vocational training) and eLearning" (Pépin: 2007, p121). This Decision (2006)[170] acknowledges that

> *Significant advantages would accrue from integrating Community support for transnational cooperation and mobility in the fields of education and training into a single programme … A single programme would also encourage better cooperation between the various levels of education and training.* (2006, p46)

When Erasmus became part of the EU's Lifelong Learning Programme in 2007, one of the objectives was to deal with student placements in enterprises, which had been within the remit of the Leonardo da Vinci programme to then. Although facets of the Jean Monnet programme were ongoing since 1989, as an initiative (to encourage aspects of European integration[171]), it was also encompassed into the Lifelong Learning

[170] Decision No 1720/2006/EC
[171] Article 35(1)b of the Lifelong Learning Programme

Programme. The Transversal programme (to include "policy cooperation and innovation in lifelong learning"[172]) was also included.

With the recommendation by the European Parliament and the Council on the establishment of a European Qualifications Framework (EQF) for lifelong learning in 2008[173], there was a chance to compare qualifications throughout Europe. This was also meant to allow lifelong learning to be more transparent by having an analogous level of knowledge, skills and competence, demonstrated by the neutral reference established by such a framework, to be compared to national levels. This might facilitate youth learning most obviously but is also relevant to later learning.

In 2009 the Council conclusions "on a strategic framework for European cooperation in education and training ('ET 2020')"[174] recognized that

> *an updated strategic framework for European cooperation in education and training – building on the progress made under the 'Education and Training 2010' work programme – could further enhance the efficiency of such cooperation and provide continuing benefits and support for Member States' education and training systems* (Council: 2009, p2)

In March 2010 the Commission launched the EU's *EUROPE 2020 Strategy for smart, sustainable and inclusive growth*[175] setting targets in areas like employment and education. The seven initiatives include one aimed at *An agenda for new skills and jobs*. This aims to "empower people by developing their skills throughout the lifecycle" (Commission: 2010, p6), with the mention of the lifecycle reminiscent of the extended

[172] Article 3(2)a of the Lifelong Learning Programme
[173] OJ C 111, 6-5-2008 p1
[174] OJ C 119/2, 28-5-2009
[175] COM(2010) 2020 final

definition of lifelong learning which replaced "on an ongoing basis" with "throughout life" to emphasize the cradle to grave aspect of such learning (Dehmel, 2006).

Another initiative in the Europe 2020 strategy is the *European platform against poverty*. This aims to share the benefits of growth and jobs and enable social cohesion. Some progress is visible for the EU as a whole in the 18-24 year old age cohort in terms of early leaving from education and training. While the 2012 value is as yet only an estimate, the figure has dropped from 14% in 2010 to 12.9% in 2012.[176] An emphasis on youth has not changed as the decade progressed and as mentioned above, in the statement of the members of the European Council[177] (2012), the objective was to stimulate employment, especially for young people.

4 IMPACT

4.1 SOME COMPARATIVE INSIGHTS

Writing on EU law, Snyder has said that implementation is the "process and art of deliberately achieving social change through law" (Snyder: 1993, p26). The process involves seeking a means to an end. This was originally envisaged to be within the grasp of the Treaty Articles. However, fears of relinquishing sovereignty by Member States led to a search for innovative means for Europeanization. Individual Member State representatives have also spoken of methods to achieve some sort of consensus. To illustrate, British Prime Minister, David Cameron's speech on the EU and Britain on 23rd January 2013, highlighted flexibility as the route to the ideal of cooperation. This ideal is

[176] epp.eurostat.ec.europa.eu/portal/page/portal/europe_2020_indicators/headline_indicators

[177] See http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/ec/127599.pdf (from 30-1-12)

proclaimed as not the same as those who would strive for an ever closer version of political union within the EU. There is a need to empower States because countries are said to be different.

From the EU perspective, the programme method and negotiation have evolved, the latter as the Open Method of Coordination (OMC) since 2000 in some fields in particular. A normative agenda of lifelong learning, employability, social inclusion as each are applied in the youth field, have all been established. They are acceptable and immediate concerns. Social change has been pursued by the Social Dialogue, and general negotiations at EU level. The extent of the change may however be disputed.

Since the EU uses legislation on a major scale, Snyder's (1993, p19) view of 'effectiveness' is interesting:

> *'Effectiveness' is taken to mean the fact that 'law matters: it has effects on political, economic and social life outside the law --- that is, apart from simply the elaboration of legal doctrine'. By its emphasis on the social context in which law operates, as well as in its interdisciplinary character, … It includes --- but is not limited to --- implementation, enforcement, impact and compliance.*

This gives a useful general approach to looking at how European Community legislative initiatives can be evaluated within the cultural sphere in operation. The following sections will look particularly at the impact of educational programmes/soft law, and do this from the perspective of partnership, accountability and human capital. This will be done to evaluate the impact of EU initiatives, in attempts to influence policy goals and

processes on employability for the 16-24 year old age cohort in FE, within Member States.

4.2 PARTICIPATION INSIGHTS

4.2.1 PROGRESS ON INTEGRATION AND PROGRAMME SUCCESS

OMC can be looked upon as a version of partnership. Conceived in the late 1990s and properly functional since 2000, it has continued to develop and expand in a promising manner of peer review, best practice acknowledgement and recommendations. Although claiming it is too new a process to be properly understood, Trubek et al (2005, p356) indicate quite a few reasons from the literature that suggest why the OMC might work. The illustrations discuss both top-down and bottom-up possibilities. The former illustrate how ideas that originate at EU level might influence national policy agendas. These include diffusion of ideas through deliberation and mimesis. Teague (2006, p280) suggests that the original sobering experience of OMC was replaced later by more positive evaluations and increased deliberation. Snyder (1993, p48) writing before OMC, even then suggested that the "Commission has sought to ensure the effectiveness of Community law mainly by the process of negotiation".

Despite a rise in popularity, there are reasons to be wary of deliberation or negotiation as methods aimed at achieving an impact. First, negotiations can be carried on by interests with very entrenched ideas. This can lead to failure to reach agreement or lead to agreement on diluted versions of the original policy ideas. Secondly, negotiations that lead to agreement do not guarantee compliance. This can lead to renegotiation and further

time spans. Thirdly, without some element of top-down enforcement at the heart of deliberations, the institutional integrity of the EU may be compromised.

Fourthly, the OMC as a soft law measure falls short of true democracy. It does not involve the National Parliaments (Duina and Raunio, 2007) in the original negotiations. Fifthly, as soft law it is meant to be non-binding. This causes concern for its functionality. While its attraction is its non-binding character, this obviously influences its effectiveness. The more its effectiveness, the less likely it is to be considered non-binding. Sixthly, because of the fact that OMC does not have a punitive aspect through the European Court of Justice, it could be considered to be bypassing one of the major institutions of the EU. This is not to say that it lacks punitive aspects. On the other hand, if the OMC leads to accepted behaviour being established, the ECJ may decide to make decisions based accordingly which would then make it binding. This causes confusion with regard to the Treaty position on institutions and therefore the Primary legislation's institutional function. In terms of effectiveness there is a direct contradiction within a method that on the one hand sets out to create social change and on the other challenges the conceptual framework of its parent legislation.

And finally there is the problem which can also be seen in terms of implementation of ideas. Because of the nature of soft law, there is a problem with the defining function (setting the parameters of engagement and pinpointing who or what is affected). The fact that Member States differ in their ways of implementation allows for comparisons and the search for best practice, but could limit the direction of progress even with guidelines.

Notwithstanding, as a concept to drive learning and employability, the OMC partnership concept has potential to draw educational cultures, or learning cultures framed by particular purposes (Biesta, 2011), together and to find a common set of purposes within these cultures. Because cultures are structured and structuring (ibid), an element of bottom-up governance becomes a possibility. In a similar manner, if partnership based on peer understanding within states was used to best effect, there could be progress on educational disadvantage. The concept of peer understanding would necessarily involve the disadvantaged or representatives thereof, in any partnerships. Foucault's description of power as a relationship between individuals (Masschelein, 2004) indicates the need for some form of partnership to establish a relationship conducive to a sharing of economic prosperity. This then relates directly to accountability to which we now turn.

4.3 ACCOUNTABILITY INSIGHTS

Levin (1974) mentioned that the ultimate objective in education aims to acquire social outcomes from educational outcomes and the accountability lies in judging the achievement of this objective. Accountability could thus involve reporting, searching to improve results, focusing on goals for a given group or changing an institutional structure appropriately. Taking learning as formal, non-formal or informal as outlined in the *Memorandum on Lifelong Learning* (2000), whatever the educational process, there is an implication that learning is to achieve at least some element of cultural capital and/or social capital. Predominantly in the EU, accountability has been highlighted for cultural capital. The EQF, ECTS and ECVET have all been aimed at learning outcomes in the shape of knowledge, skills and competences. In discussing the accountability reference

practices like ECTS, Gleeson (2011, p2) wonders if it may be the " 'Trojan horse' that legitimates the neo-liberal performativity agenda".

If the institutionalized form of cultural capital is taken as some form of educational qualification, the question arises as to why such is sought. Another question arises as to whether the achievement of the cultural capital is a norm of the community or whether an individual aspect is more dominant. The EU debate has seen the airing of social and economic dimensions, and also neoliberal tenets that have emphasized the individual. The contradiction arises from such neoliberal tenets being utilized alongside the social and economic dimensions. The marketisation of education and the supremacy of economic policy have not allowed the belief in the EU argument that both social and economic policies are equally important. When considering the social and economic outcomes mentioned by Levin, EU educational programmes show that the social outcomes are not akin to social capital but very much related to economic capital and part of the economic outcomes genre. From the perspective of accountability, the EU has adjusted the institutional structure (Levin, 1974) somewhat by leaning towards intergovernmentalism instead of harmonization. The EU institutions do report, search for improved results and try to focus on goals for given groups. It is worth noting that to change the mode of governance within the EU, OMC was a major innovation.

Learning partnerships as a participation agenda to make headway on the achievement of equality of condition may allow innovation similarly within individual member state politics. Lynch and Baker (2005) highlight this with respect to power. While highlighting

that inequalities “of power occur in educational decision-making and in the exercise of educational authority” (ibid: p148) they underscore the power relations relevant to, inter alia, aspects of assessment. This is directly related to qualifications or the lack thereof. It is therefore a pertinent issue in the search for improved employability for those who are educationally disadvantaged. Lynch and Baker (2005) push for the democratization of educational relations.

National Action Plans (NAPs) on any given soft law measure as part of the OMC reflect aspects of the administrative function (with observance and regulation attached), but are not backed ultimately by a true prescriptive function (removal of choice or preference) as represented on the legislative conceptual framework described in chapter five. This kind of anomaly skews the discussion about soft law measures away from their consideration as true law. Other influences on impact include the fact that the soft law measures can be aimed at objectives without specifying methods, and because of the nature of ensuing processes, which may include benchmarking and peer review, there is a possible lack of stability within the soft law measure. The latter instance of instability may be caused by adjustments within methods of observing the spirit of the law due to cultural restraints such as the filtering system mentioned by Dale (1999). This is more than the rectifying function (alterations considered after judging whether a statute *can* attain or whether it *is* attaining objectives) which is a legitimate part of the legislative conceptual framework. The difference is that the rectifying function is meant to involve minor changes normally, whereas the instability can lead to much more sweeping alterations.

The question arises as to whether sweeping changes need looking at. As Epstein (1993) mentions, there is a predominance within accountability discourse of a political Right agenda. Upward accountability to those at the center of governance is paramount to the Right agenda, without taking adequate heed of local issues. An outcomes-based model of accountability which had "its ideological genesis in models such as … Fordism" (Gleeson: 2011, p8) seems outdated in a post-Fordism economy. Marketisation of education based totally or largely on outcomes-based accountability without taking adequate heed of a process model of curriculum design and development to allow more appropriately for "knowledge and understanding" as opposed to "information and skills" (Gleeson: 2011, p8) is in need of review. This review may find that FE differs from HE in that a different balance of product and process may be necessary.

Snyder (1993, p26) describes compliance as

> *a series of reactive behaviors through which the targets of state action seek to accommodate the new incentives and disincentives with existing imperatives.*

When this is applied to the Member States' compliance with regard to EU law, there is an initial concentration on the idea of *reactive behaviors* which are also related to accountability. This puts an emphasis on the willingness, for whatever reason, of the Member State to obey the legislation. Harris (1997, p227) puts four concepts before us when discussing a duty to obey the law. While mainly writing of a general duty of a citizen to obey the law, the concepts are particularly relevant to compliance with EU law by Member States. The four are "gratitude, promise-keeping, fairness, and the promotion of the common good". Taking promise-keeping as pertinent to the OMC, it would seem

that even in the absence of a strong prescriptive or punitive function that the obligation to achieve the EU policy objectives agreed to, is strong. Where these policy objectives are meant to lead to social outcomes, the relevance of educational outcomes comes to the fore as does the aspect of human capital, which is discussed next.

4.4 HUMAN CAPITAL INSIGHTS

The discussion in this chapter thus far outlines the importance of human capital in EU policy. Whether the public/private good aspect of human capital is a zero-sum option or not is debatable. In the EU, the question must be considered as to whether policy makers look on human capital as a public or private good or a mixture of both. It is true to say that the economic competitiveness of the EU zone is of primary importance to the EU institutions. The will to increase productivity within the EU in general is salient. This is pushed by the aim to regulate member state activity as much as possible. Still there is limited EU *competence* (a term used to describe the level of power available to EU institutions that is granted within the governing treaties) in the education and employment sectors. Hence, any attempt to infiltrate this zone is done by using the dominant ideology/power within the member states. OMC is utilized to influence the power structure represented by state government. Thoughts of a manipulative discourse are awakened when one sees the economic agenda take a falsely manufactured back seat in some arenas, in preference to the language of social cohesion, employability and lifelong learning for the benefits of inclusion.

The confusion in EU policy and the manipulation that is considered, stems from the pushing of a private good agenda in the form of the individualization of lifelong learning in a post-welfare scene. This is done through the use of public good forums in the form of the government of the member states. Duina and Raunio (2007, p490) highlight claims of an executive federalism and "a channelling of authority towards the executive branch" within Member States with a concomitant reduction in democracy.

The policy processes and goals are pushed to potentially include the disadvantaged but are to be carried through by those pushing the dominant ideology. Ideally this looks right, but when the agenda is seen as economic in reality, the question arises as to how much those in power can be trusted/or are able to perpetuate the private goods of the educationally disadvantaged through the use of human capital. What appears to be assumed in this is that educational participation is equivalent to a fair participation in society at large. It does not acknowledge the power relationships or the marketisation of education. As O'Brien (2013, p5) explains

> *diverse interest groups powerfully invest in education's image and status and its associated pedagogical relations. Accordingly, 'innovation' in teaching and learning is shown to have different meanings, purposes, parameters and actions.*

Whether the programme method of Europeanization which bypasses governments in member states or the OMC which aims at a form of deliberative governance, serve to allay fears of manipulation, is worth considering.

The Leonardo da Vinci programme *Facts and Figures 2007-2011* (2012, p2), still proclaims that the objective of vocational education and training (VET) "should be both to contribute to employability and economic growth and to promote social cohesion". However, the tone of the document is still economic in nature. The "image and status" (O'Brien, 2013) of education and training in this instance is assigning a particular definition on social cohesion which is that of participation in mainstream economic productivity. Yet the initiatives within the Leonardo programme have potential. The partnership initiative that began in 2008 (involves organizations from at least three countries and includes the aim of sharing experience and good practice) and the innovation aspects (both transfer and development of new methods in VET systems) are examples here. This is why all EU and some non-EU states participate in the Leonardo programme.

Another facet worth considering for comparative insights and in terms of general impact, is what Habermas considered as the system (in this case the EU) colonization of the lifeworld (See Edwards, 2004). The rise of New social movements within this sphere is also worth discussion. The fact that the EU works as a supranational system trying to colonize another national system within which there is a lifeworld of the less dominant culture in the form of the educationally disadvantaged, does not necessarily mean that positive progress is dismissed. However, to work as an arena within which a nodal discourse on lifelong learning can flourish within the true democratization of educational communications, the OMC has to be developed to include those most in need of the agreed decisions and best practice that is accepted. Otherwise the colonization of the

national system by the supranational system, while filtered for cultural and traditional identities to some extent, could be filtered predominantly in favour of the more dominant ideology. This, as Van Dijk (2006) highlighted, can lead to the perpetuation of the dominant culture and ideology.

Aspects like OMC and the programme method highlight the need to establish a local action and hence the advocating of demand-led but also geographical demand-side aspects in national jurisdictions like England. Yet Coffield's (1999) claims of a deflection from social and economic reform and a movement to credential inflation within the discourse on lifelong learning cannot be ignored. The use of human capital arguments and the elevation of the achievement of the institutionalized form of cultural capital (Bourdieu, 1997) in the quest for EU competitiveness while maintaining an adjunct of social cohesion and inclusion, is a definite possibility in the neoliberal agenda. This is a possibility while the dominant ideology remains in power without proper resistance in the form of democratizing social movements or adequate group participation. The latter aims to combat what Lukes cited by Crossley (2005) claims to be, those decisions which although on the surface are unsuppressed, are in fact invisibly restrained due to unequal initial participation starting points. The following will draw some conclusions from the foregoing discussion.

5 CONCLUSION

Since at least the mid 1970s there has been a distinct attempt to help with employability for the younger members of society whose plight was largely highlighted by the

deteriorating economic circumstances. This chapter on the EU has seen a gradual increase in importance of the concept of lifelong learning for employability. Moreover, the use of pilot projects has become common and has been extended where progress was visible. However, Dehmel (2006) questions whether lifelong learning as a phrase is "an elastic concept that can be tailored to prevailing needs and broader aims, or whether the EU is indeed building on a comprehensive concept and strategy of lifelong learning" (Dehmel: 2006, pp 49-50). The contiguous nature of economic and social aspects within the debate of lifelong learning seems contradictory. The inability to draw away from the primacy of economic policy is evident in many EU documents. Moreover, an aspect of concern is the fact that EU policy has largely identified general education and vocational training as separate. This has been, according to Ertl and Philips (2006), at the root of restricted success of some EU programmes, for example Leonardo da Vinci. Furthermore, the use of ECTS and ECVET with a learning outcomes approach may focus too much on the product at the expense of the process of learning. On a positive note, work-based learning has been lauded in programmes such as Force and Leonardo da Vinci.

Accordingly, when judging positive and negative attributes of EU policy, it is fortunate to note that OMC as a form of partnership or deliberation, although always open to abuse of power, has potential for success (Trubek et al, 2005; Teague, 2006). It creates some possibility for the democratization of education through learning partnerships.

CHAPTER TEN

CONCLUSION:

COMPARATIVE INSIGHTS FOR IRISH EDUCATION: A DISCUSSION

1 INTRODUCTION

This chapter will discuss some of the comparative insights prompted by the study. These insights for Ireland are discussed in general first and then specifically outlined in summary at the end of the discussion section in table format. The insights are meant to consider good practice for possible *policy borrowing* or *policy transfer* (See Dale, 1999), cautionary tales where observed policy and practice has led to dubious results, or policy to be avoided. Although focusing on comparative insights for Ireland in this thesis, the thesis works towards the development of a methodology that draws together some conceptual tools for developing the discourse further. The insights are drawn from the questions and sub-questions presented in chapter six. These questions are based on the themes developed throughout the thesis which were derived from the education/employability/economy link and also relate to Foucault's ideas on power relations, relationships of communication and objective capacities. The themes are participation, accountability and human capital and relate to questions one to three respectively. As a comparative study, the insights are rooted in jurisdictional legislative and cultural practice perspectives.

While discussing the comparative insights for Irish education policy gained from an investigation of the main research aim which is structured on the critical comparative policy analysis of key employability interventions for the 16-24 year old age cohort in FE from some key legislative and cultural practice perspectives, each section of the discussion is progressed by use of the critical analysis of discourse. This follows on from the main research aim where a genealogically informed method and a critical policy

analysis enabled the progression of the main methodology of jurisdictional comparison. The comparative insights are pinpointed for the reader throughout the chapter's discussion by highlighting.

Cultural differences will have to be considered in terms of *policy borrowing* or *policy transfer*. Jowell (1998) draws attention to the fact that not only does comparative policy analysis highlight what other jurisdictions are doing, but may also delineate a variant of critical awareness of national policy that is not obvious from debate and discourse within the home jurisdiction. Likewise, the author, as a sort of *cultural stranger* with regard to the three jurisdictions under study, acknowledges O'Sullivan's (1992, p445) warning of "the inevitable temptation to interpret the new culture in terms of the assumptions and logic of one's own culture." The following sections will highlight some of the comparative insights from the jurisdictional studies. The three main themes of participation, accountability and human capital are represented in the questions that sought to operationalise the main research aim and sub-aims. As mentioned previously, the three themes relate to what Foucault (1982) described as power relations, relationships of communication and objective capacities. In a similar way to the latter concepts, the three themes that form the basis of the questions here, have an element of overlap. The themes cannot be treated totally as "separate domains" (ibid., p786).

2 DELINEATING INSIGHTS FROM QUESTION ONE: PARTICIPATION

Participation can be viewed in a number of ways. Here it is viewed as interest group participation or learning partnerships, both from the perspective of a democratization of

dialogue for content of learning and engagement of learning to acquire and use knowledge **(insight one: partnership)**. As Biesta (2011) mentions that learning is a cultural practice, the goal with respect to these two manifestations of participation is to enable their consideration together, so that learning in an appropriate cultural representation for those who could be the educationally disadvantaged is achieved through the true democratisation of dialogue. The concept of inclusion implies a form of partnership. The extent of this partnership depends on how it is viewed. Corporatism in England was seen to be diminished to a form of partnership that was curtailed due to the exclusion of more radical groups (Dobrowolsky, 2003).

The Open Method of Coordination is seen as a success in the European Union due to the emphasis on peer review and best practice. Although, participation can be open to power struggles and the misinterpretation by the dominant ideology of the culture of the educationally disadvantaged, if properly democratic it can allow a voice for the disadvantaged to express a true delineation of the needs of the less dominant culture in a participatory bottom-up approach. As Gleeson (2010, pp67-69) documents, the National Economic and Social Forum (NESF) in Ireland, operational from 1993, seemed to elicit a success in the "adoption of a consensus approach to planning". At a time when the EU is pushing OMC, it is interesting to see that the Irish government seems to have abandoned aspects of the partnership model instead of trying to reconstruct it for the economic crisis that is ongoing at the time of writing (late 2013). The neoliberal move to individualism and what Habermas (1973) called the "ideological erosion of cultural values", albeit a relatively new cultural departure since the mid 1980s (in the case of the NESF) on the

recommendation of the National Economic and Social Council (NESC), seems to be dictating the present climate.

As mentioned, there is a nascent redirection/development in Ireland of the FE sector with the *Qualifications and Quality Assurance (Education and Training) Act, 2012*, the *Education and Training Boards Act, 2013* and the *Further Education and Training Act, 2013*. In using specific legislation in the FE sector, Ireland is following a similar policy track to that seen in England, the United States and the European Union. If this sector is meant to help inclusion, the lack of an adequate definition of the term educationally disadvantaged may hinder participation **(insight two: defining disadvantage)** because of the failure to identify the group involved. Be that as it may, Tormey (2010) discusses elements of difficulty with a definition or understanding of educational disadvantage as a term. Definitions, he suggests, may not be value-free. Nevertheless, in citing O'Sullivan (1999), he also implies how much use of the term educational disadvantage in policy documents demonstrates a phoney consensus where the use of the term is maintained as if agreement had been established as to what the term represents. In the interdiscursive analysis mentioned by Fairclough (2005), where genres (types of social activity), styles (ways of being), and discourses (diverse representations of social life) are debated, discussed and analysed, it becomes clear that elements of the discourse of educational disadvantage as a term, remain as imaginaries in so far as unattained goals surround its representation as a term, a representation that essentially fuels the combating of same. The question arises as to how the genres and styles aimed at achieving equality of

condition can progress if the discourse that enables them to succeed is flawed to begin with.

One aspect in this flawed discourse is the concept of marketisation **(insight three: marketisation)**. Due to the large amount of FE providers, as the renewed system develops in Ireland, there is likely to be more competition for students. Competition within a capitalist agenda can lead to elements of marketisation. This amounts to an economic survival of the fittest and is not conducive to attracting the educationally disadvantaged who are often in a socio-economically disadvantaged position as well, due to the repetitive cycle of disadvantage. Whereas Ó Buachalla (1988) drew attention to the process issues dominating within education culture in Ireland in earlier decades particularly with regard to curricular content, for example, at compulsory level, he also recognized that the structural aspects (such as management and funding) were more prominent for the third level sector as it began to expand. As the 1990s progressed and the ideology of neoliberalism began to have an influence in Ireland, process issues became less dominant as thoughts of accountability and marketisation gained influence. In, for example, the *Education Act, 1998* (with the legislation for an inspectorate) and the 1999 Bologna Declaration from the EU, an emphasis on learning outcomes or product became part of a consumer based ideology. As seen when discussing England, after the *Further and Higher Education Act, 1992*, allowing the youth training sector to succumb to market forces was said to lead to aspects of exclusion due to "under-provision, skill shortages and a waste of young people" (Gleeson: 1993, p36).

It would appear that what is needed is a balanced approach where democratic debate or dialogue allows those who deem themselves as educationally disadvantaged, for example in employability terms (as outlined in chapter two when outlining a conceptualization of employability in an FE context), to have a forum to discuss issues influencing them. A demand-led approach towards acquisition of FE or other versions of institutionalised cultural capital, could be useful. Dialogue would seem to take precedence over a definition of disadvantage. A useful insight from the United States (US) was evident despite the use of the nominal function (privileging a group or field by naming) and defining function (setting the parameters of engagement and pinpointing who or what is affected) of legislation in the *Workforce Investment Act, 1998* which defined disadvantaged youth and disadvantaged adult. This was seen to be of limited use when it came to reaching institutional targets and did not encourage some institutions to take on the most disadvantaged for fear of negatively skewing the attainment of targets and giving the wrong market signals or leading to loss of funding. This arose due to, for example, the difficulty of obtaining employment for some within these groups.

Joined up government may be worth considering when looking at aspects of dialogue. Ling (2002) says that this is where there is an effort

> *to align the activities of formally separate organizations towards particular goals of public policy. Therefore, joined-up working aims to co-ordinate activities across organizational boundaries without removing the boundaries themselves. These boundaries are inter-departmental, central-local, and sectoral (corporate, public, voluntary/community). To join up, initiatives must align organizations with different cultures, incentives, management systems and aims.* (ibid., p616)

Clearly, in theory at least, a hierarchy of control is absent before negotiations begin. This is not to say that in reality such a hierarchy of power relations will not develop. One of the chief considerations in such elaborate partnerships is the concept of accountability to which we now turn.

3 DELINEATING INSIGHTS FROM QUESTION TWO: ACCOUNTABILITY

As seen in the chapter on the European Union (EU), the Principle of Subsidiarity leads to respect in terms of how Member States transfer policy on education based on aspects originating from the EU. Dale (1999) also mentions how countries filter outside influence based on cultural aspects within. There is a facet of accountability inherent in getting the balance right between EU and state interests when overseen by the OMC, if legislation is left to the individual state. However, the following process may work for internal legislation just as well. Reauthorization of legislation **(insight four: reauthorization of legislation)** after it sunsets (cease to operate after a certain date unless renewed on certain provisions) as used in the United States allows a rectifying function (alterations considered after judging whether a statute *can* attain or whether it *is* attaining objectives) within legislation and could be considered to avoid statutes becoming anachronistic, as well as allowing the update of legislation that is seen not to work or to serve little purpose. The sunset clause may serve to manage the transfer of policy goals and processes from outside a jurisdiction as well as managing internal policy directions. The reauthorization process could serve a purpose in the need for accountability and management of social and economic matters.

The cultural usage of terms such as second level (post-primary) and third level (higher education) due to historically uncoordinated efforts in Ireland to establish a coherent sector known as FE, will make it more difficult to delineate just where FE fits into the Irish education policy agenda. Nonetheless, Ireland is at the brink of an era of change, a paradigmatic shift **(insight five: mutation)** in the FE sector. The sector is already large and so expansion as a paradigmatic change as described by O'Sullivan (1993), and as happened in the US in the 1960s and early 1970s, is not considered appropriate here. Mutation is probably more appropriate (ibid.). Mutation is described by O' Sullivan (1993, p265) as "the reworking of an element of a paradigm to the extent that it facilitates the emergence of a new paradigm". The element that is reworked is the modus operandi of the FE system as was seen in England also. The use of legislative measures to achieve some aspects of the mutation when a dearth of educational legislation has existed historically in Ireland, gives a further reason to consider the process of reauthorization of legislation.

Paradigmatic change may come about for different reasons. One such circumstance may evolve due to accountability concerns. Those who govern may initiate change, for example, for reasons of improvement. This improvement is not necessarily free from ideological influence. The paradigmatic change can be critically analysed with a view to assessing any improvement attempts. In interdiscursive analysis, the styles (ways of being, such as the manner of operation of those in power) (Fairclough, 2005) of those in the dominant ideology are often indicative of how such paradigmatic changes are

initiated. For example, a neoliberal agenda may favour aspects of individualism and marketisation which may not be suitable to the inclusivity agenda.

The style of those in power will not necessarily encounter resistance as the mutation is initiated. This is due to the fact that much of the same system remains or is perceived to remain. In Ireland, a stricter monetary regime is mooted among the primary concerns amidst the recent changes. Other parts of the discourse involve potential condensation symbols (See Troyna, 1994) that legitimate the changes for interest groups but may not serve the purposes in years to come. The mutation in the short term is largely unchallenged. Its relevance to the educationally disadvantaged depends on how the "policy options" (O'Sullivan: 1993, p265) are integrated within the "reworking" (ibid.) of parts of the old paradigm. The recent mutation has certainly seen a better rhetoric with regard to the education/employability link in, for example, the *Further Education and Training Act, 2013*. However, if the "regulatory power" of the paradigm as described by O'Sullivan (1993, p261) is "a function of how weakly or strongly framed are its boundaries", some dubious details have accompanied the mutation attempts.

For example, aspects of the academic/vocational divide are just as much a problem for the FE system in Ireland as seen in England. The hegemonic status of academic qualifications will be hard to overcome if the divide is to be surmounted. This is complicated by the fact that it is unclear where those in power want the new FE system to go without a statutory definition of FE. Where welfare-in-work schemes stand with regard to the accreditation framework is also largely undetermined. Apart from these

issues, if anything can be taken from the experience of what is regarded here as a mutation in England, it is that continuous monitoring of the new system is vital. To illustrate in England, the marketisation of education and the failure to deal properly with geographical disparities in the aid to the young unemployed, has led to inconclusive results about the success of the changes after the *Further and Higher Education Act (UK), 1992*.

In looking at the perceived paradigmatic changes with regard to FE in this study, England was considered to have undergone a mutation within the FE system. The United States was considered to have undergone an expansion in the postsecondary sector. The European Union was felt to have witnessed an attempt at paradigmatic rupture with regard to education policy in member states. With regard to the paradigmatic shift in FE in Ireland, the legislative initiatives, for example the *Further Education and Training Act, 2013*, the deference given to FE to aid a knowledge economy and a new Common Awards System (CAS) for progression opportunities from FE to HE, are arguably the most obvious forms of the mutation. It involves a reworking of concepts, themes and policy directions (O'Sullivan, 1993) and the attempt at clarification of the position of FE.

To illustrate in Ireland for example, the *Labour Services Act, 1987* (repealed by the *Further Education and Training Act, 2013)* which established FÁS did not clearly connect education with employment. The paucity of use of the term education in the 1987 act was remarkable, although the term training has a much stronger position. However, the *Further Education and Training Act, 2013* which established SOLAS and provided

for the dissolution of FÁS has references that engage the education/employability link as well as juxtaposing education and training, and thus, these references appear in theory to curb the academic/vocational divide. While the *Vocational Education Act, 1930* (repealed by the *Education and Training Boards Act, 2013)* was to make "further and better provision" for certain types of education, the *Education and Training Boards Act, 2013* is to provide for "better coordination and delivery of education and training". The aim of better coordination is a leap forward in the establishment of a more coherent FE system, a facet lacking in the past. Nevertheless, there are aspects of concern. For example, the CAS system uses the outcomes based method of judging standards and requirements. This emphasizes product over process. A cautionary insight needs to be considered here when the idea of product is mooted for accountability.

The idea behind product or outcomes-based methods **(insight six: product v process)**, can effectively ignore educational disadvantage. In striving for accountability the method fails to acknowledge that educational disadvantage stems from such a system. In a similar vein to the idea of condensation symbols (See Troyna, 1994) which are "designed to create symbolic stereotypes and metaphors which reassure supporters that their interests have been considered", neoliberal ideologies are enveloped in the accountability mantra based on outcomes. These symbols such as the terms inclusion, equality of opportunity and the like, are at the very least plagued by aspects of recontextualisation, and at the very worst are used in a managerialist manipulation of the discourse to satisfy the dominant ideology (See also Tormey, 2010). The manipulation can be further demonstrated in one-sided dialogue that is not a true representation of the

democratization of dialogue and curbs realistic participation by the disadvantaged. The orders of discourse or different ways of making meaning favour the dominant ideology even when it comes to the use of apparently non-value laden words. The outcomes are suited to those in power and confine those who are not. The genres or types of social activity as described by Fairclough (2005), which can be represented by examinations and the search for outcomes due to the semiotic aspects (or language signs) within, help to construct the comprehension that the educationally disadvantaged have of the Bourdieuian concept of field that is manifest in the education system. The field or "structured space of forces and struggles" (O'Brien and Ó Fathaigh (2005, p69) is clearly visible within the outcomes based agenda and often deters the educationally disadvantaged from participating in further education if they feel powerless to do anything about their position in society.

There is a growing interest in learning outcomes in HE (O'Brien and Brancaleone, 2011), otherwise known as product (as opposed to an emphasis on process*)*. This is no less so in the FE sector in a post-Fordist economy where the nodal discourse represented by the term *knowledge-based economy* engages more with the information/skills needed as opposed to the knowledge/understanding which is more relevant to a process model of curriculum design (Gleeson, 2011). This nodal discourse, while engaging with aspects of inclusion of, for example, the educationally disadvantaged, fails to address the learning culture as social practice (Biesta, 2011) when it sets the equilibrium too much in favour of learning outcomes. This format of aiming to find out what "learners will be able to

do"[178] places too much emphasis on students as directed rather than directing. A proper stress on process and a knowledge/understanding emphasis allows the development of the student as director. This encourages a directing of oneself as well as a leading of others by enabling understanding and problem solving to a better extent. To establish proper participation, the educational culture (Biesta, 2011) (or learning culture framed by particular purposes) must enable one to direct, as well as allowing one to be directed. This is achieved by a balanced emphasis on product and process.

In applying the model of learning outcomes, the political right (for example, neo-liberalism, marketisation, accountability for results) has made most of the running (Epstein, 1993) at the expense of the political left (for example, democratisation/dialogue, learning partnerships). The learning outcomes agenda can place an emphasis on blaming the individual for an implied deficiency. This deficiency is not deconstructed to decipher the elements within or the power influences that have enabled a section of the community, albeit a majority, to decide on what is to be considered as product.

Accountability as a concept based on the deliverance of product is also promoted as what works for the economy. This may involve aspects of globalisation (for the state) or marketisation (for individuals as consumer). This version of accountability favors what Gleeson (2010, p58) describes as populism, where a policy is accountable on the basis of the "appeal to the broadest section possible of the electorate". A similar concept is seen when Habermas (1973) describes the control of the legitimation crisis. This control needs

[178] Progression Opportunities for 2013
as downloaded from fetac.ie/fetac/documents/Progression_Opportunities_for_2013.pdf

a balance of efficient output by government for loyalty input by society. Yet the control optimization does not demonstrate a real concern for the educationally disadvantaged whose members constitute a minority. As Hursh (2005) alludes to, even when the concept of individualism is discussed alongside that of community with regard to accountability as product, it envisages the concept of opportunity and not equality. This is what Hursh (2005) describes as a contradiction in policy of claiming individualism as a way forward even though it curbs efforts at an inclusive society, where the latter is also a claimed policy goal.

Accountability for monetary expenditure is a dominant feature in the jurisdictions studied. Post-welfare policies that place a responsibility on the individual have influenced the post-Fordist agenda in all three jurisdictions. The concept of welfare-to-work within each jurisdiction has ramifications for the understanding of employability. The neoliberal influence, while concentrating on individual responsibility, detracts from the element of working with as opposed to working for the educationally disadvantaged. To some extent at least, this element of working *for* implies a filtering out of those not prepared to work. The concepts of underclass, as described by Mead (1991) or worklessness, as described by Theodore (2007), are implied to represent those who have not taken responsibility for individual accountability in terms of employability.

Moreover, when policy in England was meant to be following a Third Way for inclusion, there was movement from corporatism to partnership with an underlying tone of control by government (Gleeson, 1993; Newman, 2001; Dobrowolsky, 2003). The manipulative

use of the implication of partnership moved from a true consensus approach. Centralised responsibility in this manner does not take account of power relations. It does not acknowledge that the educationally disadvantaged have and do face barriers towards improving employability. Policy decisions based on this ideology move further from the ideal of social inclusivity as each policy track based thereon, is introduced. England's centralized policy approach has consolidated this accountability track within the education system with, for example, the *Education and Inspections Act, 2006*. A market place for employability improvement based on a flawed concept ensues. The search for results and joined up government pursues a false promise of equality of condition. The joined up government which involves an "overlap between social, economic and education policy" (Bartlett and Burton: 2007, p219) subordinates social policy to economic policy. Furthermore, the separation of academic and vocational qualifications has been made manifest in the form of a separate qualifications framework. Moreover, the mutation into a comprehensive system of successful FE qualifications is divided by a cultural superiority of HE over FE. When Gleeson (2011, p8) discusses the product (objectives) model of curriculum design as against the process model, in terms of "quality assurance and accountability", the implication that the process model is being subordinated at the expense of the educationally disadvantaged is a viable conclusion.

4 DELINEATING INSIGHTS FROM QUESTION THREE: HUMAN CAPITAL

In *Education at a glance* (2013, p13), there is acknowledgement of the positive influence of educational attainment on employability. It is also acknowledged that even though young adult unemployment is a serious problem, it is not universal within OECD

countries (ibid). How the "institutional arrangements between education and work facilitate transitions into employment" (ibid., p14) are regarded as most important to containing young adult unemployment (25-34 year olds) which rose by 21.5% for Ireland between 2008-2011 (ibid., p13). Thus, the incentive is shown for the 16-24 year old age cohort to attain appropriate levels of education. Ireland's education logic would appear to be relevant in the increase in youth unemployment. This is despite the claim by the *Taskforce on Lifelong Learning* (2002) that the "traditional conceptual and organizational divide between education and training is anachronistic" (2002, p9). This represents a call for the flexible specialisation recognized by Young (1993) as relevant to Post-Fordism, which he contrasted with the divisive specialisation of a system that lauds academic over vocational education and training.

Moreover, if employers are moving to a flexibility paradigm as suggested by Brown (1997), which in this instance equates to a search by employers for more than just qualifications from potential employees, it becomes obvious that the divide between academic and vocational education complicates this search if academic qualifications (on a prima facie basis) give a head start over vocational qualifications. What could be regarded within the flexibility paradigm as a combination of cultural capital in the institutionalised form (Bourdieu, 1997), with social capital strengths, becomes less viable for the elements of equality of condition (Lynch and Baker, 2005) it promises for the educationally disadvantaged who are more likely to access vocational courses, if the "boundary issues" between academic and vocational qualifications are not tackled as recommended by the *Taskforce on Lifelong Learning* (2002, p9). Nonetheless, the

strength in the flexibility paradigm would appear to be in the ability of the social capital built up from, for example, work experience contacts and character references (inner determination, drive) or leadership abilities gained from networking with work colleagues, to empower the individual to balance (to some extent at least) the lack of symbolic capital from some institutionalized forms of cultural capital (See Bourdieu, 1997). Those among the educationally disadvantaged who access the vocational system could gain some significant chance of work mobility if the social capital, in the sense considered by the flexibility paradigm, is developed in tandem. Any work mobility could open the possibility of further accreditation.

Furthermore, a difficulty with a definition for FE needs attention **(insight seven: defining FE)**. Although in England, the *Further and Higher Education Act, 1992* and the *Education Act, 1996* both gave a definition of further education, the Kennedy Report on Further Education (1997, p1) cast doubt on the use of such definitions by claiming that "Defining further education exhaustively would be God's own challenge". In Ireland, in debates on the Further Education and Training Bill, 2013, when Deputy McHugh[179] asked about the definition of further education within the bill and whether the Minister would "consider broadening the definition to include other systematic and deliberate learning undertaken by adults in a wide variety of settings and contexts, both formal and non-formal", an important issue of discourse was being presented. The Minister said that he recognized that

> *further education and training as it is currently delivered covers a broad spectrum that ranges from basic adult literacy and numeracy courses to courses that are certified at level 6 and above on the National Framework*

[179] Dáil Debates, 14 May, 2013, Unrevised, Written Answers Nos. 212-234, Proposed Legislation

> *of Qualifications … Since the publication of the Bill a number of concerns have been raised regarding the definition of further education and training and the matter is being dealt with in the context of the passage of the Bill (ibid).*

On this occasion, the definition of further education was removed altogether from the interpretation section of the *Further Education and Training Act, 2013* when enacted. While the *Further Education and Training Act, 2013* has utilized the proactive function (acknowledging a need and forges progress) of legislation, the avoidance of a process issue in the definition of FE has led to aspects of accreditation being unfulfilled in aspects of non-formal learning in particular. Moreover, the overlap on the NFQ for some of the FE and HE awards at level 6 warrants a proper acknowledgement for FE that may be lacking if the traditional/cultural division in Ireland between vocational and academic qualifications is not overcome. This has credibility undertones for anyone studying in the FE sector if, for example, a level 6 qualification in FE is not given the same cultural standard or deference as a level 6 qualification in HE.

When O'Brien and Brancaleone (2011) mention "lost knowledge" in the objectives model or learning outcomes model, they embrace the difference between what managerialism considers as required outcomes and what Biesta (2011) implies in his description of educational cultures. These latter cultures are learning cultures framed by particular purposes and seek outcomes also. The outcomes sought in Biesta's sense of the phrase mean what "counts as good or desirable learning" (ibid., p199). The managerialist viewpoint that embraces the neoliberal marketisation of learning seeks outcomes based

on “a counterfeit type of knowledge” with limited “emancipatory quality” (O’Brien and Brancaleone: 2011, p14).

When discussing human capital and in considering comparative insights from the three jurisdictions, some salient issues arise with regard to aspects of supply/demand policy and the academic/vocational divide. In terms of supply/demand aspects of the education/employability link, having been questioned with regard to training and further education courses by Deputy Lyons in June 2012 in the Dáil as outlined above[180], Deputy Cannon seemed to suggest in his answer that these would be demand-led. This does not consider the geographical or demand-side facets **(insight eight: supply/demand policy)** outlined by Theodore (2007) (in England) and Gore (2005) in some active labour market policies, even when programmes are demand-led. The demand-side approach would consider geographical areas that are most in need of economic development as potential blackspots for provision of good quality jobs following education, training or work experience due to a lack of appropriate infrastructure. The need to develop this infrastructure is highlighted.

Apart from direct economic spatial aspects, there is also a need to consider skills mismatch issues. The latter are applicable due to other instances that influence employability such as employer discrimination issues which are often based on symbolic capital (Bourdieu, 1997). This form of capital can be represented by the status attached to, for example, institutes of learning (O’Brien and Ó Fathaigh: 2005, p69). If as alluded to earlier, the public is less aware of the position of the FE sector, the symbolic capital

[180] Dáil Debates, Wednesday, 27 June 2012, Volume 770 , No 2 , p91, Col. 481

considered to be attached to FE may detract from the employability potential. Hence, the recent introduction of specific FE legislation in Ireland may need to be bolstered by the realization that the FE system is not as well known in terms of accreditation for employment (Breen at al, 1995).

When considering the separation of different forms of education **(insight nine: academic/vocational divide)**, it is worth noting that the study of the jurisdictions demonstrated that rhetoric about the complementarity and cross-fertilization between general/academic and vocational education did not witness the actual realization of equitable status. The historic separation within the EU of the two forms of education as well as separate qualification frameworks, a facet also carried through in England, complicates and even consolidates the fact that was, according to Ertl and Philips (2006), at the root of limited success of some EU programmes, including Leonardo da Vinci. This, it is implied, was caused by the lack of an overarching framework for the differing types of learning and/or links between them (ibid., p80).

Other issues considered include facets of welfare-in-work and welfare-to-work initiatives in particular. Some work-based programmes or welfare-in-work programmes (example EU FORCE programme) exhibited potentially useful aspects. In the case of a welfare-in-work based scheme, a learning partnership involving employers to agree (in Ireland) on NFQ qualification, partial qualification or an accreditation of prior learning base, needs to be made possible for those not already qualified **(insight ten: accreditation of welfare-in-work schemes)**. Partial qualification or accreditation of prior learning could be carried

forward to further education and training or future employment in similar sectors. For use as cultural capital, the latter instances would recognize the value of qualifications for use in an education/employability link. This is contrasted with the short-termism of welfare-to-work strategies by Nativel (2006, p79). It is the improvement to employability prospects that could make welfare-in-work aspects more long-term, particularly if accredited and more recognizable. This could coincide with consideration of the concept of mentoring, or using a caring adult to help with a disadvantaged youth inside or outside employment, a concept respected in the US and legislated for appropriately.

Further points of note are highlighted when considering the product/process debate and how that debate is positioned in relation to the concepts of formal, non-formal and informal learning as described in the European Union's *A Memorandum on Lifelong Learning* (2000) in terms of accreditation or the academic/vocational divide. This is also relevant in welfare-in-work education and training where certification of some sort is being considered. Furthermore, Blank (2002) explains that welfare-to-work based programmes that mix education/training with work placement and supplement social welfare benefits throughout the work element of a project appear, having considered relevant research, to work best. Such programmes clearly acknowledge the education/employability link.

The following table summarizes the comparative insights for Ireland.

INSIGHT	*DESCRIPTION*
Insight 1	Partnership: Proper partnership with equality of power in democratic dialogue
Insight 2	Defining disadvantage: Difficulties with defining of the term. May deter some institutions if penalties accompanying unaccomplished goals
Insight 3	Marketisation: May lead to the further exclusion of those already excluded. Extends opportunity not equality of condition.
Insight 4	Reauthorization of legislation: Allowing legislation to sunset or cease and review to renew
Insight 5	Mutation: A reworking of the old FE system for proclaimed accountability needs to be monitored for "regulatory power"
Insight 6	*Product v Process*: An appropriate balance needs to be procured so as to acknowledge the fact that *product* may prolong exclusion
Insight 7	Defining what constitutes FE in a given circumstance. Need to account for different kinds of learning
Insight 8	Demand-side: Employability policies need to consider geographical issues
Insight 9	Academic/vocational divide: The need to establish the symbolic capital of FE on a firmer basis
Insight 10	Welfare-in-work: Need to accredit learning in such circumstances

Table 2.

5 CONCLUSION

Some concluding comments can be made at this stage. The research in this thesis was considered worthwhile for a number of reasons. The foremost started with an observation in a school with disadvantaged status where FE in the form of post-leaving certificate courses (PLCs) was provided for a number of years. These programmes appeared to give a number of senior cycle students the will to reconsider their position in the education system. Their senior cycle leaving certificate results were not encouraging them or enabling them to enter third level/higher education. Their job prospects were also poor due to their attainment at senior cycle examinations. The courses provided in the school, although later discontinued because of falling numbers and resource constraints, not only got a qualification for the students involved but tested their interest in the area of study concerned. Some continued at the end of the PLC to higher education institutions because of transfer programmes developed by the third level institutions based on FE accreditation.

The FE system has been discussed periodically in Ireland in terms of increasing the legislative base but the FE system still seems to be stuck in a position between second and third level and not given an adequate status in its own right. With the increasing recognition of FE in Ireland, it seemed logical to look at how other jurisdictions had considered FE. As this thesis is written (late 2013), Ireland is going through what I have described here as a mutation in the FE sector and the thesis has sought to aid the discourse on paradigmatic change and at the same time develop a metalanguage to

discuss legislation in context. Some aspects of the research that was carried out from this general set of thoughts can now be summarized.

The FE sector has been put on the verge of what could be called a mutation to a more coherent system that could aid with the socio-economically and educationally disadvantaged. Public confidence or understanding of FE has not been traditionally apparent. The cultural disposition of dividing vocational and academic education and the uncoordinated nature of FE in the past, means that FE now starts from a subordinate position. In a similar understanding to Habermas' (1973) description of the legitimation crisis, the paradigmatic shift within the FE sector may succeed or fail (input crisis) with regard to public confidence based on the output measures provided by government[182].

Some comparative insights have been put forward in this thesis to encourage debate. The ideological power structure and the hegemonic status of some of the cultural practices in Ireland are very dominant considerations. The Bourdieuian concept of habitus of individuals and the Foucaultian concept of government of individualization and/or civil privatism which "corresponds to the structures of a depoliticized public" (Habermas: 1973, p661) may serve as inertia to changes needed unless the mediation possibilities (see O'Brien and Ó Fathaigh, 2005) within the concept of habitus are utilized. This is most likely to be achieved by some form of social partnership being established. The definition of FE and/or the accreditation position of learning that falls within the boundaries of FE must be substantiated. Moreover, accountability measures are in need of readjustment to

[182] See for example how the FÁS controversy was viewed in the late 2000s

facilitate aspects of process (knowledge/understanding) to accommodate all cultures within the concept of learning.

There is far too much emphasis (in education parlance, discourse and policy) put on the economic side to the detriment of social policy. Marketisation of education is put in a manipulated position where it is claimed to be helping all on an individualist basis without considering the head start given to monetary advantages or the superior position given to academic over vocational education. The protective function (not the guarding of the ideological hegemony of the powerful classes but a proportionate safeguarding of objectives) of the recent legislation (2012 and 2013) needs to be properly invoked and the process of reauthorization utilized to enable the rectifying function (alterations considered after judging whether a statute *can* attain or whether it *is* attaining objectives) if need be. The objectives within the legislation need to consider the educationally disadvantaged in an appropriate manner by engaging with those who consider themselves to be members or potential members of such a cohort. This is catered for in the *Further Education and Training Act, 2013* when setting the strategy in respect of further education and training. The mention of consultation with "other persons" allows for this and should be drawn on by the democratisation of dialogue to attempt to accomplish a balanced FE system that works for all in all sectors of the country of Ireland.

APPENDICES AND BIBLIOGRAPHY

APPENDIX 1

KEY LEGISLATIVE PERSPECTIVES:TOWARDS A CONCEPTUAL FRAMEWORK

(To be read in conjunction with chapter five of the current volume).

1 THEMATIC

The thematic function involves the consolidation of a topic that is actually worthy of discussion. It does not in itself serve any major purpose except to initiate or further a discussion by inserting features of the topic into regular usage. Having done this, the topic may gain ground to have a respected position. In education there are many areas that have achieved this status and have been debated over many years, some without the aid of legislation. The involvement of outsiders or cultural strangers (O' Sullivan, 1992) has focused on issues from an international perspective also and has been influenced by English and United States debate in particular. The proper status achieved by topics in the mini society that is academic writing allows the greater outflow to society in general of these topics. The opposite directional flow may also arise. The ideas of meritocracy, equality of educational opportunity including access issues, disadvantage and the culture of poverty thesis, and equality, are some topics worth mentioning.

Legislating for ideas that have not reached the appropriate status is unlikely to happen but topics on a lesser agenda that have legislation mentioned as a way of addressing them, can be raised to a different level. Calls for legislative measures at discussion groups and seminars and acknowledgement of areas in case law may have the effect of elevating the discourse status of a topic. The ideological hegemony may distract from the attribution of

interest to some topics. However, where a topic gains a paradigmatic status and is seen as a viable problem to be solved, there is always likely to be a greater chance of legislation. Where legislation is used in a given arena, it allows more regular usage of terminology relevant to the area but is likely to do so in the terms used in the legislation.

2 NORMATIVE

Mentioning *legislative intent* brings a normative aspect to a given topic. Even legislating for an area may still leave only a normative aspect to its debate. It may only deal with aspirational dimensions and there is therefore a general need for more substantial versions to substantiate a true pervasive manner. Normative aspects are often influenced by ideological aspects of society. They are also heavily burdened by interest group interactions where compromise and fear of voting backlash hinder the objective. The normative dimension, as a function of law, is often used to influence citizens into thinking that something is being done. It acknowledges that a part, maybe even a substantial part, has concerns about the agenda under debate. Governments may decide to supplement normative measures with circulars and other quasi-legal methods as these are easier to change and do not need as much agreement to implement.

Without a normative understanding that there is at least a problem to be focused upon, more pervasive measures can be lost. It can identify what stronger enactments could focus on and also widens the debate as it creates further discussion by showing policy inclinations often overlooked when not enacted. As a measure in itself within legislation, it arguably creates poor law unless supplementary legislation in the form of secondary or

further primary legislation follows. Normative aspects may name groups but may do so in conjunction with others or treat the group as one with unclear boundaries.

3 NOMINAL

Whereas normative measures may name the group(s) that is under discussion, a nominal aspect as a function of law is an improvement as it now sees the named group as privileged in some way. It can be seen more clearly where the policy that is enacted is going. The boundaries are clearer and the function of the law here is to specifically announce that something is to follow with regard to the named group. It separates the group from other groups. It may give rise to interest groups or may be directly caused by interest groups. Either way it strengthens, without confirming, the position of the named circle. The foregoing does not mean to suggest that a nominal nature in a discussion needs legislation. What the nominal nature of legislation does establish is that those named have been taken seriously by the legislature. The normative aspects have been surpassed and elaborate policy decisions have been put in place. This may happen because of a vocal interest group, membership of the European Union, case law that has recognized a specific aspect of society that needs attention or myriad other formats.

4 LEGITIMATING

The phrase *legitimates* suggests that any mention within legislation would give a facet of debate a solid footing. In the present study, it is meant to recognize the preparation that is initiated by the nominal facet on its way to a more definitive undertaking. The way that legislation operates may be mentioned in a statute. It may come into being after two years

if no other consideration is given. It may need secondary commencement orders. Whatever way it comes into formal operation, legitimation gives a topic a life that is tangible. It is contended here that an agenda given a normative aspect alone, does not attain the legitimation phase in a proper manner. It serves a more dulled purpose.

Despite some topics reaching the preferred status of legitimation, the ideological hegemony may still determine its successes or otherwise depending on the nature of the subject. Legitimating makes society take measures to react to a topic. In the education arena, it rarely means that it is known exactly what to do to substantiate legitimation. This is normally accomplished by other functions in the framework.

5 PROCEDURAL

This function of law is the beginning of bureaucracy for a legislative measure. Bureaucracy can exist without legislation but within a statute the procedural function consolidates this matter. Without the nominal or legitimating function it serves little purpose. Inevitably statutes will be revised as time moves on and are likely to be changed by secondary legislation periodically or even new legislation and amendments. Procedures may be controversial and lead to unrest. Appropriate nominal and legitimating measures may alleviate this.

The procedural function of law should not be confused with the administrative function. Procedures in the education arena or for aiding the disadvantaged are unlikely to be spelled out in the legislation. The procedural function legitimates the processes that arise

from the nominal function by leading to the clarification of those who fall into a named category.

6 DEFINING

It can be argued that law plays no part in defining a problem and that it is society and the acceptance by a majority of a definition or simply a problem that raises it to acceptability. Others see law as playing a *critical role* in definition (Eitzen and Baca Zinn, 2006, p360). It is contended here that laws that influence need to have a definitional function as leaving things undefined can mislead and even fail. This is not to claim that definitions cannot be revised for improvement or expansion but improper normative and aspirational *definitions* serve little purpose.

Defining sets the parameters of engagement. It pinpoints who or what is affected by the law in question. Discriminatory laws in the disadvantage area and the education area identify who are to be privileged by the legislation. Non-discriminatory laws do not isolate and serve little more than a general purpose. For the aiding of a minority, although sizeable, the defining function prescribes a discriminatory law. Nevertheless, this is easier said than done. Definitions of disadvantage are notoriously difficult to settle on and those for further education (FE) are not much better. These were discussed in the study earlier, in chapter two.

When definitions are given, they serve not only to identify but to also limit. While dealing with a legal framework, Beckmann (1997) writes of defining a whole host of

aspects outside of the main areas of disadvantage and FE mentioned here. He writes of defining "standards and values" and of defining

> *... as clearly and succinctly as possible the rights, duties, competences and obligations of the various interested parties (such as educators, parents, learners, the training sector and the community in general) in a manner which will give substance to the fundamental human rights existing in the country;* (Beckmann: 1997, p125)

Even though defining is undoubtedly a controversial phase of any legislative measure, it needs little thought to see why lack of definition clouds the objectives to be ascertained.

7 PROACTIVE

Being proactive means being sure that there is no legislation at present that can procure the same objective that is sought. It also involves being sure that there is no other way of achieving the objective. Defining in a suitable manner also makes a legislature proactive. It may mean that being proactive is part of policy or has been made part of policy by membership of the European Union, or a case law decision, has been accepted from a committee set up for a reason or some other justification.

It acknowledges that to move forward requires a clear pathway ahead. This assumes that efforts are in earnest. Poor aspirational definitions are not proactive. They draw controversy and derision and as a result may serve to alienate support for a government or illustrate a lack of sincerity towards citizens by that government. It may also serve to stamp on a legitimate expectation that would be more salient from a broader definition, something that might be regarded by a government as a draw on resources.

It is also debatable whether quasi-legislative measures like circulars, and other administrative measures constitute a proactive agenda. The fact that these types of measure have come normally from government sources only, is of dubious democratic precedence. General statutory provisions can also have a lack of proactive evidence. The likelihood is that interest group compromise or lack of compromise, fear of inappropriate spending regimes by government, general lethargy on behalf of those in power or misunderstandings of the substantive area in question are some of the criteria at the root of this. Furthermore both Nourse and Schacter and Jorgensen and Shepsle imply that enacting coalitions also compromise in drafting statutes.

8 INSTITUTIONAL

Procedures inevitably give rise to institutions if the function that law is to carry out is to be realized. An institution may be categorized as a corporate body working as a unit for legal reasons or may be constituted in some less formal entity. Whatever its designation, it serves to oversee in a formal manner what the government and a Department have sanctioned. The Department may reserve ultimate responsibility but corporate entities tend to go it alone in this respect. They can sue and be sued but safeguard the individual members in most circumstances. What institutions, agencies and their like essentially do is oversee the many aspects that come into being when the procedural function is recognized. They may advise if necessary, but also should superintend in terms of objectives to be realized. For the proper functioning of the law for which they are a part, they should be acknowledged and have power to implement subject to the acceptable rigour of a system. The institutions must be accountable.

9 PERSUASIVE

Plato was of the opinion that laws should be persuasive as well as coercive. Laws that direct by persuasion work if those that are to be controlled by the system agree with what is being done. This may be a selling or learning process. Interest groups and ideologies of the more powerful have often led to compromises in legislation. They have also led to softer options within legal regulation with normative undertones that do not compel. The persuasive function is stronger than the normative function but weaker than the prescriptive. It does not contain a strict flexibility other than the required type outlined by Thomas (1990, p10):

> *The term flexibility refers to how adequately the law intentionally provides means by which likely future improvements in educational provisions can be introduced without the need to change the fundamental law.*

Strict sanctions may not be immediately applicable. Nonetheless, it expresses government policy to a point where it is expected to be carried out. Sunstein (1996, p964) mentions an expressive function of law. For the purposes of this study this expressive function has been split. The persuasive function would be the first fraction of this split with inciting and prescriptive being the other two. Sunstein writes that:

> *Many laws have an expressive function. They 'make a statement' about how much, and how, a good or bad should be valued. They are an effort to constitute and to affect social meanings, social norms, and social roles. Most simply, they are designed to change existing norms and to influence behaviour in that fashion.*

It is not clear here that there is a separation between persuasive and prescriptive law obligations. Neither is it clear that there is a similar function of law to its persuasive one. This is its inciting function to which we now turn.

10 INCITING

Monetary incentives are one of the primary forms of persuasive measure and are essentially an incitement to action. The money, often in the form of a grant, is given for compliance. This is an example of the inciting function of law and its like was considered by the classical positivist Jeremy Bentham as a version of *praemiary law*. Other examples may include continued membership of a group, continued sharing of resources and so on. This can be achieved without legislation and possibilities include circular and other forms of quasi-legislation. This may go some way to explaining why Austin, another classical positivist, could disagree with the idea of laws giving a *positive* sanction as an incentive to obeying a command. When done in the form of legislation it gives a legitimate claim on the incentive that may be lacking in quasi-legislation. This is because the quasi-legislation may not have the force of law (Byrne and McCutcheon: 1996, p415). This in itself means that a legislative measure gives a higher standard of credibility to efforts. However, the ultimate response may not be compliance if the monetary measures or otherwise are foregone by the noncompliance of those sought to be incited due to what they see as more *pertinent* matters being dealt with.

11 PROTECTIVE

The protective function of law has been summoned to entrench, as an acceptable measure, what the legislative policy enactment has as its basis. For the socio-economically disadvantaged this may amount to what are minority rights which Dworkin (see chapter five) claimed could not be ignored on undistinguished policy grounds. For the area that is FE, it may want to establish the use of what is often forgotten in Irish

education parlance, as commentators speak and write of first, second and third levels, ignoring the position of FE which traditionally has had a dubious position in terms of its definition.

Establishing rights cannot be anti-utilitarian to an excessive extent, something discussed in relation to Dworkin's rights thesis. Some sort of balancing function of law is called for and will be discussed later. The protective function of the law in this instance does not have the understanding assigned to it by Marxism. The accusation that law essentially protects the ideological hegemony of the powerful classes is meant to be dealt with by the discussions with interest groups and properly compromised. As Sunstein (1996) remarks:

> *While social life would be impossible without norms, meanings, and roles, individual people have little control over these things ... People need collective help if they want to change norms, meanings, or roles. Collective help may be futile or counterproductive; it may be illegitimately motivated. But these matters require an inquiry into the particular context. The issue should not be foreclosed by resort to confusing claims about the need to respect private choice.* (Sunstein: 1996, p968)

Furthermore, apart from protecting rights, the corrective elements within the system should mean that the protective function must also allow for anomalies and failures to be dealt with by a limited flexibility as outlined previously.

12 PRESCRIPTIVE

This is where choice or preference is removed from the metaphorical equation. The elements of debate or persuasion or incitement are all removed. The flexibility is kept for "likely future improvements" (Thomas: 1990, p10). The legislative intent mentioned by Delnoy (undated) is paramount. The concrete objective of classical positivist theory has

an importance in this instance and the policy is seen as something that must be achieved. If the legislation is trying to achieve something outside the dominant ideology, it accepts implicitly Hart's ideas (see chapter five) of a repressive and even unstable society when a system is unfair and fails to allow for the interests of its citizens who are expected to follow the laws of the land. It brings the paternalistic views of the government policy agenda to the fore.

Posner's (see chapter five) misgivings about legislation's efficiency can be rebutted by subsequent efforts at judging the efficiency of the prescriptive measures. Finnis' *basic forms of human flourishing* are implicitly acknowledged. However, to write of the prescriptive function of law like so almost belies the sometimes inordinate nature of the negotiations and compromises that are hidden within. Notwithstanding this, the fundamental rights that are so often written about and claimed for all must weigh heavily on all incumbents if any legislation is to function properly.

13 RESOURCING

The necessity for resourcing and the amounts entailed are controversial. Resourcing may entail direct monetary aspects in the form of capital or current expenditure. It may also involve indirect monetary amounts in the form of personnel, equipment and the like. However it is looked at, there is never an infinite amount to be assigned. The doctrines of promissory estoppel, estoppel by representation, estoppel by conduct (where estoppel is a common law doctrine (Clark: 1992, p59) and "arises where a person makes a promise or a representation as to intention to another, on which that other person acts" where the

representation or promise binds the representor (Department of Education: 1995, p215)) and legitimate expectation, all serve to complicate the situation when it comes to a clear understanding of funding implications.

Furthermore, Farry (1996, p104) extends this when he points to other potential complications while he suggests that aspects without statutory basis may still have legal effect. He states, while writing about the Rules for national schools in the Republic of Ireland, but arguably this is just as relevant in the present context that "The fact that the Rules for national schools do not have a statutory basis does not mean that they are without legal effect" (ibid., p24). Statutory measures that apportion funding and benefit the resourcing function also profit other functions like the administrative function (that will be described below) and allow those concerned to be aware of what format the funding will take while removing a large amount of the uncertainty that does or indeed might exist in the future. It also serves to illustrate the manner of funding and whether the institutional function mentioned earlier will have a part to play.

14 FACILITATIVE

Facilitative law is evident in much of the legal system and examples include contract law, family law, commercial law and human rights law. This is where the law involved does not strictly involve a command followed by a sanction. The facilitative function of law brings with it at least two aspects to consider. The fact that a law can facilitate the achievement of an objective because of the authority attached to it is one such aspect.

Another facet is whether a de facto facilitative law can or should have a sanction attached to it.

Much jurisprudential thought has gone into the coercive nature of law and the sanctions attached and whether a law is worthy of being law. Bentham and Austin's command theory arguably ignores facilitative law in favour of other types of law. In the naturalist tradition, Thomist jurisprudence is stronger in its apparent acceptance that law can be facilitative in his ideas of *rational regulation for the good of the community*. In the conceptual framework in the present study, it is suggested that law can be mainly facilitative in the education field but by attaching a sanction, it further enables the objectives to be realized.

15 ADMINISTRATIVE

It is a considered opinion of many that law or a law has to have an administrative function. It follows from its inception that any system has to have some element of observance and regulation attached. If we take a system without observance or administration, monitoring falls into the category of conjecture. It helps with other functions like rectifying and balancing. Commentators like Pan and Law (2006), Thomas (1990), Harris (1997) have all mentioned the administrative function of law in various guises. The Irish White Paper on Adult Education (2000, p199) has in the *structures* section, a mention of "monitoring and evaluation". It mentions the:

> *... reporting and quality assurance processes of the various agencies and institutions which have a role in providing adult education or supporting services. A critical part of this process is the promotion across the system of a culture of team planning, self-appraisal, review and adaptation, under*

> *which the quality of education continues to evolve and improve on an ongoing basis in line with changing needs.* (ibid., pp199-200)

Because this present study deals with young adults (16-24) in the FE sector, this statement can be seen as relevant and establishes what is essentially a requirement for administration as a general policy of government for *review and adaptation.*

16 FUNCTIONAL

It is a function of law or a law to be functional. The drafters of the legislation will need to work closely with the legislature on this. Delnoy (undated, pp3-4) articulates the distinction between the general objectives and the specific objectives of the statute. The general objectives are to be effective so as to avoid being a *dead letter* and efficient in that it produces the "desired effects, should not have perverse effects and should so guide conduct as to achieve the desired objective" (ibid., p3). The pursuance of specific objectives, he claims (ibid., p4), would include distinguishing the means from the ends. The means by which the objectives are pursued will depend very much on the ends to be achieved and it should not then conflict with other laws.

To function correctly it needs to be realistic, and this may entail a compromise with interest groups without being detrimental or leading to purely aspirational legislation. Bold efforts may need to be endured so that the socio-economically disadvantaged overcome the power and status stations of the not so. If FE is to be part of the functionality of the legislation, it would need proper compatibility with the aspects influencing the socio-economically disadvantaged.

17 PUNITIVE

If law is to achieve objectives, it needs to be properly functional as opposed to being aspirational. If law is to alleviate or solve social problems, the action that is legislative needs to be assertive. This functional assertiveness can be dealt with by being persuasive or inciting but may need to be coercive or punitive also. The stronger element of being coercive or punitive may include negative sanctions like monetary fines, withholding grants, removal of status and the like. This is in contrast to the positive measures in the form of increased grants and other incentives in the inciting function of law.

Furthermore, punitive measures need support from other functions like resourcing and administration. Legislating for punitive measures would likely solve problems of estoppel and legitimate expectation, with regard to removal or confining monetary grants. However, the concept of proportionality would inevitably apply in a democracy:

> *The principle of proportionality, to a large extent, incorporates the principles of fairness and reasonableness* (Department of Education: 1995, p215).

The application of criminal sanctions in certain circumstances with the added burden of proof of *beyond reasonable doubt*, could not be discounted. Harris puts it more succinctly when he mentions the general nature of the debate with regard to sanctions:

> *... in debating the merits of proposed legislation which seeks to penalise or de-penalise some activity, one may ask whether the measure is supposed to be justified by its good consequences, or whether it is aimed at more perfectly realizing the state's duty to punish wrongdoing.*
> (Harris: 1997, p54)

This is essentially the utilitarian versus retributivist debate on the uses of negative sanctions and their purpose. The main purpose of negative sanctions in the education or

disadvantage fields would be to use them as a deterrent or in some instances, as a prevention, and are in contrast to alluring sanctions in the inciting function. These would imply a leaning towards utilitarian measures using the burden of *balance of probabilities* where necessary.

18 RECTIFYING

Two understandings need illumination here. The first deals with this function in so far as it is tied in with the processes of research and reporting. Whether the statute is allowing the objectives outlined to be reached or not will determine what rectifications in the statute need carrying out or whether the punitive measures need realization. A lot of the other functions will be directly influenced by how their aspects are being realized. Some rectifications will be determined by inflationary measures where resourcing and inciting functions become illustrative examples. Others may be due to unforeseen realignments, such as those called for because the legislation is seen as incompatible with other measures or has become so for example, due to changes of legislation in Europe.

The second part of the rectifying function is the actual alleviation or removal of the social problem. The fact that a statute can rectify a problem or has the power to do so gives it a rectifying function with a social aspect attached. Some have adverted to the possibility that society defines what a social problem is whereas the law defines the aspect it is to tackle. In this understanding the rectification is therefore directly influenced by what society considers appropriate and whether the statute is working or not ties the second aspect of rectification in with the first one already mentioned.

19 BALANCING

Whether the belief is that utilitarian measures are best when it comes to sanctions or not, it is often seen as best to measure the effect of something in a democracy according to the majority application. The utilitarian belief, which was the basis of Bentham's censorial jurisprudence, is sometimes inaccurately confined to the *greatest happiness of the greatest number*. As previously alluded to, it can also be seen as the tendency of an action to improve the lot of those being considered in *a substantial manner*, even if it lessens that of the majority slightly. Dworkin's rights thesis goes further by saying that there is no excuse for trampling on the rights of others to facilitate the many. This makes for a complicated mixture that the legislative measure is to encompass.

From the point of view of this thesis, the concept of distributive or social justice must be considered. It must be a rational discussion that is based on policy. If any legislation in the education and disadvantage arena is to serve a purpose, it needs to be reviewed and the balancing function is definitive in this process. Furthermore, this review would be an extension of the original statute which itself should be balanced. One of the more extensive influences on the balancing process is group interest or status group compromise, a facet of partnership that may not in itself be balanced due to power, authority and general ideological considerations.

20 EFFICIENT

Posner (cited in Harris, 1997) was of the opinion that legislation was largely inefficient due to interest group compromises. In the case of a statute, from the point of view of this

study, the efficiency criterion is based on the achievement of objectives. To judge the amount of efficiency when total success is not achieved, is likely to be the most controversial area. The interest group negotiations are very influential here as realistic objectives will likely be agreed at this point. Archer's (1979, p217) discussion of change is useful in this instance and in writing about the emergence of State educational systems, she mentions the limited group interactions:

> *... the interaction of dominant and assertive groups was held to be the 'guidance mechanism' responsible for repatterning the relationship between education and society and transforming the internal structure of education itself.*

For subsequent change, she goes on to write about the increase in group numbers and how the original interactions are replaced by different ones. This, when viewed with Posner's comments in mind, lead the need for understanding the myriad influences on legislation, apart from the moral thoughts of allowing the disadvantaged share appropriately in the education system.

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