

St. Patrick's College

Coláiste Phádraig

Parents as Partners:

**An examination of the constitutional, legal
and policy position of parents as partners in
primary education in Ireland**

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Thesis submitted to the college in fulfilment of the requirements for the Degree
of Doctorate in Education

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I hereby certify that this material, which I now submit for assessment on the programme of study leading to the award of Degree of Doctorate in Education is entirely my own work and has not been taken from the work of others save and to the extent that such work has been cited and acknowledged within the text of my work.

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ABSTRACT

Parents as Partners:

An examination of the constitutional, legal and policy position of parents as partners in primary education in Ireland

Claire O'Connor

This study seeks to address a paucity of research that exists in respect of the constitutional, legal and policy position of parents as educational partners in primary education in Ireland. The aim of this study is to inform and enlighten the current, legal and policy position of parents in partnership in order to challenge and inform the future course of educational partnership with parents in primary education in Ireland.

The dissertation examines the constitutional, legal and policy position of parents as partners in primary education in Ireland. The 1937 Irish Constitution provides the context for this exploration as it recognises the parent as the primary educator of the child. The relevant articles of the Constitution and case law surrounding them are analysed. Questions are posed as to whether the character of these articles has affected Irish education and educational policymaking by examining the legal position of parents in primary education. The study further seeks to define partnership with parents and examine the response to this partnership in terms of past and current policy provision for partnership.

This qualitative study is conducted by use of the semi-structured interview. It seeks responses from fourteen key stakeholders in the fields of both law and education, who are members of representative bodies, which influence the legal and policy position of parents in order to give a comprehensive view of their understanding of the role of parents as educational partners in primary education in Ireland.

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ABBREVIATIONS / ACRONYMS

B. Ed.	Bachelor of Education (degree)
CECDE	Centre for Early Childhood Development and Education
CERI	Centre for Educational Research and Innovation
ECHR	European Convention on Human Rights
EHRR	European Human Rights Reports
EU	European Union
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICT	Information and Communication Technology
ILRM	Irish Law Reports Monthly
INTO	Irish National Teachers' Organisation
IPPN	Irish Primary Principals' Network
IR	Irish Reports
NCCA	National Council for Curriculum and Assessment
NEPS	National Educational Psychological Service
NEWB	National Educational Welfare Board
NPC	National Parents Council Primary
OECD	Organisation for Economic Co-operation and Development
RSE	Religious and Sexuality Education
SPHE	Social, Personal and Health Education
UCC	University College Cork
UDHR	Universal Declaration of Human Rights
UNCRC	United Nations Convention on the Rights of the Child
UNHRC	United Nations Human Rights Council
WSE	Whole School Evaluation

INTRODUCTION

The hypothesis of this study is that past and current legal and policy provision affecting parents as educational partners in primary education in Ireland does not recognise the parent as the primary educator of their child as stated by the Constitution of Ireland, 1937.

The sub-issues arising from the hypothesis aim:

1. To analyse educational partnership with parents in the Republic of Ireland and the response to this partnership in the primary sector in Ireland by exploring the past and present legal and policy position of parents.
2. To examine the position in both policy and practice of parents as educational partners in primary education in Ireland.
3. To research the understanding of educational partnership with parents of present major stakeholders in primary education in Ireland.

The investigation of the hypothesis and sub-issues are investigated over the course of six chapters in order to further the debate on the position of parents as educational partners in Irish education and to provide a deeper understanding of the issues, as well as clarifying and informing the debate. This study has an interdisciplinary focus, drawing on literature and theoretical perspectives from law and education to frame an in-depth analysis of qualitative data. The absence of legal authority and jurisprudence, pertaining to the position of the parent as the primary educator in circumstances where the issue has not been directly litigated in the courts to date, highlights the importance of this research in terms of its authenticity and contribution.

Chapter one reviews the past and present legal perspectives, stemming from academic commentary and case law, which inform the constitutional, legal and policy position of parents in the education process. This provides a framework within which to examine the role of the various partners and stakeholders in the education process. Chapter two explores the conceptualisation of the partnership process and seeks to define both educational partnership and the response to it in the primary sector in Ireland. Chapter three details the research methodology utilised in the study, outlining the objectives of the study and highlighting processes involved. Chapter four presents and analyses the data stemming from the legal interviews and compares it with the literature from chapters one and two. Chapter five presents and analyses the education interviewee transcripts and compares the findings with the detail of chapters one and two. Chapter six, the concluding chapter, presents the research findings arising from both the legal and education interviewees and compares the results to trends that are evident in the literature in relation to the three sub-issues arising from the hypothesis which form the basis of inquiry for this dissertation. Finally, the conclusion of the study is reached in terms of a collective analysis of the literature review and the research findings. This study examines the constitutional, legal and policy position of parents in relation to primary education only.

Primary education in Ireland constitutes first level education in a three tier structure of educational provision. The Irish primary education sector consists of different types of national schools which are financed directly by the State, but administered jointly by the State, a patron body, and local representatives. The Irish education system is unique in terms of its inherited pattern of denominational school patronage structure. The reasons for this are deeply embedded in Irish history.

The characteristic of the modern Irish primary school system can be traced to the early nineteenth century. The Kildare Place Society, founded in 1811 by a group of philanthropists, aimed to educate children from all of Ireland's religious groups together. The Fourteenth Report of the Commissioners of the Board of Education, 1812 embodied a landmark effort which sought to devise a schooling system that would include all children to receive the benefits of education. In 1831 Lord Stanley, Chief Secretary of Ireland, introduced the national (primary) school education system; this system was given a legislative basis when the Education Act, 1831 was enacted. The State provided financial support to local patrons for primary school provision, under the control of a State Board of Commissioners, appointed by the British Government, in an attempt to unite children of different denominations. The patron was the person or body at the apex of control in national school management and determined the form and content of religious instruction in the schools under his patronage. However, in a climate of intense denominational animosity and political division against a backdrop of historical bitterness between the churches, the multi-denominational system was strongly opposed by the Presbyterian and Catholic Churches. Stanley's vision was abandoned after the Powis Commission of Inquiry of 1870, which confirmed segregation of the national schools along denominational lines. When the Irish State gained independence from Britain in 1921, virtually all national schools were under the patronage and management of either churches. After independence, little change took place in the administration and financing of the national school system, despite control of the system being centralised within a state Department of Education, under the Ministers and Secretaries Act, 1924. A nominee of the patron acted as sole manager of individual schools; teachers were answerable to the manager and the Department of Education through the inspectorial system. In 1975 the Department of Education invited parents to join boards of management which broadened the

management base of schools; this initiative was given statutory recognition under the Education Act, 1998. In this regard, Glendenning (1999, p. 23) states:

Until the enactment of the Education Act, 1998, the structure of the education experiment initiated by Stanley's letter remained essentially the same, the introduction of boards of management in 1975 being the sole structural change.

The above quotation pertains to school management level; however, the Education Act also established the legislative status of the Minister for Education as is borne out in Section 6 of the Education Act, 1998 establishes its endeavour to 'promote the right of parents to send their children to a school of the parents' choice having regard to the rights of patrons and the effective and efficient use of resources'.

In relation to school choice, in March 2011, the Minister for Education and Skills announced the establishment of the Forum on Patronage and Pluralism in the Primary Sector; the forum was conducted by an independent Advisory Group, which reported to the Minister in April, 2012 on the outcomes. The Department of Education and Skills invited parents, patrons, teachers and the wider community in April 2011 to make submissions to the Forum on Patronage and Pluralism in the Primary Sector, in relation to the divesting of patronage to reflect the ongoing major political, social, economic, cultural, demographic and educational changes over recent decades. The significance of the Forum on Patronage and Pluralism is contextualised within the legal framework in which a constitutional preference is given to the multi-denominational nature of the national school system in Ireland. The Report of the Forum's Advisory Group published in April, 2012 summarises this position:

The issue of the future of primary school patronage has been a live one in Irish society for some time...the cultivation of trust and confidence in the process of transition is important so that people can understand the rationale for change and the values for the

common good on which it is based, as well as the legal necessity for change (Coolahan *et al.* 2012, p. 3).

The legality referred to by Coolahan *et al.* (2012) stems from the Constitution of Ireland, Bunreacht na hÉireann. The Constitution was adopted by the people in a plebiscite on July 1, 1937. It governs the basic law in Ireland and provides the framework within which rights with regard to primary education in Ireland are established. The Constitution recognises the parent as the primary educator of the child; however the constitutional term primary educator has not been defined in either law or educational practice and to date has never been the subject matter of direct litigation. Furthermore, the Constitution does not define the term primary educator. The constitutional recognition stems from the inter-linked provisions of Article 42 and Article 44 of the Constitution, which are in the fundamental rights section of the document. The articles in the fundamental rights section of the Constitution guarantee a number of basic human rights and these are accorded a specially protected position, being unalterable except by the wish of the people expressed in a referendum.

CHAPTER 1: LEGAL POSITION OF PARENTS

1.0 Introduction

This chapter establishes the constitutional context within which the education provisions of Article 42 of the Irish Constitution operate, discussing such issues as the influences which shaped Article 42, the principles of constitutional interpretation most commonly applied to it; and the relationship between Article 42 and other provisions of the Constitution which impact on educational rights. Judicial interpretation of the constitutional articles and case law surrounding them are presented.

The principle of the parent as the primary educator, based on a literal interpretation of the Constitution, is difficult to link with the roles of the State and the church. The resultant disharmony between individual parental choice and the collectivist focus of the State is explored. The role of the courts as protector of the constitutional position of the parent is examined. A strict analysis of the term primary educator may indicate that parents should be primary administrators in schools, drafters of the curriculum and home educators. These terms are examined in the context of recent legislation which pertains to the role of the parent in primary education. The effect of the statutory role of the parent on the child is explored. The theme of this chapter is to consider the past and present context in Irish education to which the constitutional role of the parent as primary educator pertains. It seeks to pose questions as to whether the character of Articles 42 and 44 has influenced educational policymaking by examining the legal position of parents in primary education. For the purposes of this dissertation the terms partnership, participation and involvement will be used

interchangeably rather than merely rehearsing the debate surrounding both the distinctions between these terms and the chronological introduction of the terms.

1.1 Pre-1937 Constitution

Prior to 1921 Ireland was governed from London and elected Irish representatives sat in the Westminster parliament. The Articles of Agreement for a Treaty between Great Britain and Ireland was signed on December 6, 1921 and the Free State Government created by the Treaty came into force on December 6, 1922. In the Constitution of the Irish Free State no equivalent of the articles in the 1937 Constitution, which declares the State's attitude towards the family and towards education, existed (Kelly, 1967). The Constitution of the new Irish Free State in 1922 referred to education in Article 10 in simple terms: 'All citizens of the Irish Free State have the right to free elementary education'. However, Coolahan (1981) notes that the Constitution of 1937 contained much more detail on constitutional rights and duties in education.

The Irish State was declared a Republic in 1948. Prior to the enactment of the Constitution of 1937 a parent by common law was not under a legal duty to educate his or her child (Glendenning, 1999). A minimalist form of compulsory school attendance was introduced by the Education (Ireland) Act, 1892 which required parents in cities and large towns to send children between the ages of six and fourteen to school for a minimum of seventy five days annually. Farry (1996) contends that the right of parents to provide for, and to prescribe the manner of education as well as religious instruction of their children, had been upheld by the

courts prior to the enactment of the Constitution, in a number of cases, on the grounds of public policy.

1.2 Basic Constitutional Principles

The Constitution addresses the issue of education in two different articles; Article 42 dealing with education generally and Article 44 dealing with religion. In this regard, Whyte (2010, p. 1) states that:

This arrangement is not without significance for the former article is largely informed by Roman Catholic social teaching while the ideological ancestry of Article 44 lies in nineteenth century liberalism. Thus, constitutional policy on education straddles an ideological fault line in the Irish Constitution.

Furthermore, in this regard Farry (1996, p. xi) highlights that there is ‘an inevitable degree of overlap’ among the articles in the fundamental rights section because it was not possible for the framers of the Constitution to divide these rights into isolated compartments.

The first section of Article 42 specifically acknowledges parents as the primary and natural educators of the child. Article 42.1 dictates that:

The State acknowledges that the primary and natural educator of the child is the Family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.

Gaire and Mahon (2005, p. 10) assert that Article 42.1 confers on parents ‘four options for arranging for the provision of education; they may provide it in their own homes, or in private schools, or in schools recognised by the State or acknowledged by the State’. In respect of the nature of this right, Glendenning (1999) points out that parents’ rights are given

a fundamental status in Article 42 being described as 'inalienable', indicating that they can never be totally transferred to the State.

1.2.1 Article 42.1 and Inalienable Rights

Farry (1996) asserts that the term inalienable was first utilised by a statement of the Catholic bishops in 1867, which purported that nature has given parents the right of educating their offspring. Kelly (1967, p. 195) contends that it is no added protection to the family that its rights should be described as 'inalienable and imprescriptible' because these rights are not precisely defined. This sentiment is borne out in the case of *G v An Bord Uchtála* [1980] IR 32 at page 79 where Walsh J., in reference to Article 42.1 and the inalienable right of parents to provide for the education of their children, stated that the interpretation of what constitutes inalienable rights is a subjective one: 'Some inalienable rights are absolutely inalienable while others are relatively inalienable'. This statement could indicate that parents have to transfer some of their role to the State in order to avail of the social institution of the school. Another word in Article 42.1, which requires analysis, is that of primary education.

1.2.2 Article 42.1 and Primary Education

O'Mahoney (2006, p. 34) states that the 'use of the term education in Article 42 of the Constitution is rather confusing and inconsistent'. In *Ryan v Attorney General* [1965] IR 294 the High Court and the Supreme Court were called upon to consider what exactly was meant by the word education in the context of Article 42.1. The Supreme Court defined education as essentially the 'teaching and training of a child to make the best possible use of his inherent and potential capacities, physical, mental and moral' (*Ryan v Attorney General*

[1965] IR 294 at page 350). In *Sinnott v Minister for Education* [2001] 2 IR 545 at page 688, Hardiman, J. when considering the meaning of the term 'primary education' in Article 42.4 of the Constitution stated that it was 'beyond any dispute that the concept of primary education as something which might extend throughout life was entirely outside the contemplation of the framers of the Constitution'. In this regard, Farry (1996, p. xii) states that: 'Although Article 42 is entitled education, the major aspect of education dealt with in this article relates to primary education'.

1.2.3 Article 42.1 and the Family

The reference to parents in Article 42.1 is confined to the family based on marriage (Farry, 1996). This was acknowledged as early as 1966 by Murnaghan J. in the case of *The State (Nicolaou) v. An Bord Uchtála* [1966] IR 572. However, the Report of the Constitution Review Group (Government of Ireland, 1996) considered it appropriate that the rights under Article 42 should apply to all non-marital parents, provided they have appropriate family ties and connections with the child in question. This analysis of the family within Article 42 is ultimately determined by the constitutional interpretation afforded to the Constitution of Ireland by the judiciary.

1.3 The Constitution of Ireland, Bunreacht na hÉireann

The Irish Constitution, enacted in 1937, is one of three types of law in Ireland, the other two types being common law and statute law. The Constitution has a higher legal status than other laws; however nothing in Irish national laws can override or take precedence over a European Union law (Hogan and Whyte, 2003). Farry (1996, p. xii) notes that 'the validity

of all domestic legislation is dependent on compliance with the Constitution'. The Constitution does not take the form of a list of specifics, nor is it intended to be a detailed legal code (Walsh, 1988). There are very few cases where the constitutional answers are clear, according to Walsh (1988). The Constitution lays down general principles and the Supreme Court is the ultimate interpreter of these legal principles. However, the Supreme Court is not the exclusive interpreter. The executive and legislative branches of government, in the performance of their assigned constitutional and legal duties, must initially interpret the Constitution and the laws.

The Constitution commits to the judges the ultimate guardianship of the Constitution itself, and the vindication of all the rights that it guarantees or that it confers (Walsh, 1988). The Constitution appears to limit a judge's discretion as do other laws, precedent and even judicial technique itself. Kelly (1967, p. 205) contends that the Constitution will only carry a judge a certain distance in determining a dispute and that 'to some extent he is thrown back upon his own conscience and discretion, naturally neither infallible nor unvarying; this is especially true in the human questions surrounding the delicate matter of children's upbringing'. Hogan and Whyte (2003) further assert in this regard that as the judiciary become more accustomed to interpreting the articles of the Constitution, interesting developments will occur in branches of the law concerning education. These developments are made possible by the doctrine of constitutional interpretation in Irish law.

1.4 Constitutional Interpretation

There is no coherent doctrinal approach to constitutional interpretation. There are five different approaches found in case law which overlap and are utilised from time to time as advanced by Hogan and Whyte (2003, p. 3): 'No fewer than five different approaches to the interpretation of the Constitution may be found in the extensive case law on this subject, although it is true that these approaches sometimes overlap'. The different ways of interpreting the Constitution include the literal, broad, historical, natural law and harmonious approaches. In *Curtin v Dáil Éireann* [2006] IESC 14 the Supreme Court noted that different interpretative elements are emphasised in individual judgements according to the particular context in which questions arise. A full and detailed consideration of the approaches to constitutional interpretation is outside the scope of this chapter. However, the different approaches are highlighted for the purpose of establishing the means utilised by the courts when construing the education provisions of the Constitution.

The first of five approaches to constitutional interpretation is the literal approach which confines interpretation to the actual words of the text. O'Higgins, C.J. referred to this approach in *DPP v O'Shea* [1982] IR 384 at page 97 stating that 'plain words must be given their plain meaning'. Similarly, Murray J. in *Sinnott v Minister for Education* [2001] 2 IR 545 at page 679 stated that: 'Where words are found to be plain and unambiguous, the courts must apply them in their literal sense'. Hogan (1988) advocates using the literal approach, because it militates against the high degree of judicial subjectivity inherent in other approaches and prevents judges from interpreting their own subjective political and personal views into the constitutional text. However, critics of literal interpretation, including Costello J. in *Attorney General v. Paperlink* [1984] ILRM 348, consider the literal approach to be

inappropriate for interpreting the Constitution, which by its nature lays down general principles.

The broad approach to constitutional interpretation favours examining the Constitution as a whole in terms of its objectives, while rejecting the excessive literalism of the literal approach. Duffy J. in *N.U.R. V Sullivan* [1947] IR 77 at page 87 stated that: 'The text of a Constitution ought to attempt no more than to mark its great outlines'. The broad approach to constitutional interpretation favours a purposive rather than a literal approach. There are further comparisons to be made between this approach and the historical approach.

The historical approach to constitutional interpretation involves assessing the Constitution in terms of the intentions of the framers of the Constitution in 1937. The sentiments of the founders of the Constitution were expressed in the case which first asserted the historical approach, namely *In re Article 26 and the Offences against the State (Amendment) Bill* [1940] IR 470. Since then, the judicial practice, with regard to the relevance to the state of affairs at the enactment of the Constitution, has been uneven. The historical approach was utilised in the case of *Sinnott v. Minister for Education* [2001] 2 IR 545. In that case Murray J. and Hardiman J. purported that the Constitution cannot be divorced from its historical context and that the State's obligation to provide for free primary education pursuant to Article 42.4 extends to children only, as was the situation in 1937. Similarly, Kenny J. in *Crowley v Ireland* [1980] IR 102 at page 126 stated that: 'The Constitution must not be interpreted without reference to our history and to the conditions and intellectual climate of 1937'. However, Walsh J. in the Supreme Court case of *McGee v. The Attorney General* [1974] IR 287 at page 319 stated that: 'No interpretation of the Constitution is intended to be

final for all time. It is given in the light of prevailing ideas and concepts'. Hogan (1988) contends that the historical approach does not grapple with the constitutional issues of 1937. Similarly, Dworkin (1986) points out how difficult it would be to quantify or identify the framers' intentions. Denham J. also supports this view and states that the Constitution is a living document which must be construed as a document of its time (*Sinnott v. Minister for Education* [2001] 2 IR 664). O'Mahoney (2006, p. 34) contends that judicial statements, which resist the historical approach are 'enormously significant statements, which give licence to a forward-thinking Supreme Court to rectify some of the restrictive interpretations of the education provisions, which have been handed down by the courts without any need for recourse to the difficult and drawn-out process of a constitutional amendment'.

The fourth approach utilised by the judiciary is the natural law approach which contends that the Constitution merely gives expression to the higher law of God or the rights of man. This approach is based on value judgements. Humphreys (1995) suggests that the Constitution should be given a secular natural law interpretation. However, this concept has been criticised by Hogan (1988) as being inherently vague and subjective. Dworkin (1986) states that constitutional interpretation should embody a process involving the judiciary interpreting legal texts in order to find the best or right answer which conforms to moral principle.

The final approach to constitutional interpretation is the harmonious approach. The White Paper on Education, *Charting our Educational Future* (Government of Ireland, 1995), has suggested that, in relation to education, where disputes often involve a conflict between competing rights, the approach commonly employed by the courts is the harmonious approach. This approach aims to construe each provision of the Constitution in harmony

with all of the other provisions and seeks to consider each article as part of the constitutional scheme rather than in isolation (O'Mahoney, 2006). This approach, which involves reading the constitutional provisions as a whole rather than literally, was utilised by the Supreme Court in its judgment in the case of *Tormey v Ireland* [1985] IR 289 at page 295:

The rule of literal interpretation, which is generally applied in the absence of ambiguity or absurdity in the text, must here give way to the more fundamental rule of constitutional interpretation that the Constitution must be read as a whole and that its several provisions must not be looked at in isolation, but be treated as interlocking parts of the general constitutional scheme.

The harmonious approach to constitutional interpretation has the benefit of avoiding strict constructivism and literalism as outlined by the Supreme Court in the *Tormey* case. However, it has been criticised as being a highly subjective approach as summarised by Hogan (1988), who contends that it is highly doubtful whether this approach lends itself to consistent application. Despite these criticisms, O'Mahoney (2006, p. 127) states that the harmonious approach is one approach that best lends itself to achieving the balance between conflicting educational rights:

The harmonious approach acts as an important safeguard in the difficult task of attempting to reconcile the competing educational rights and duties of children, parents and the State without unduly impinging on the ability of any of these parties to avail of their rights or perform their duties.

A further issue, which must be highlighted when analysing constitutional interpretation, is the conflict of the Irish text of the Constitution with the English text.

1.4.1 Conflict of Constitutional Texts

Budd J. in *O'Donovan v. The Attorney General* [1961] IR 114 at page 131 states that:

Both texts of the Constitution are authoritative. It is not to be thought that those who framed or enacted the Constitution would knowingly do anything so absurd as to frame or enact texts with different meanings in parts...if in fact the words used are not in a form really found to correspond, the Irish text must prevail.

This approach was applied in *Sinnott v Minister for Education* [2001] 2 IR 545 by both Hardiman J. and Fennelly J. who relied on analysis between the Irish and English texts of the Constitution to assert the view that the State's obligation to provide free primary education is confined to children. Having considered the various approaches to constitutional interpretation, the interesting and balancing rights of the stakeholders within the constitutional framework will now be examined.

1.5 Religious Denominations in Education

While Article 42 does not expressly mention the churches, this provision can scarcely be read in isolation from Article 44 which supports the position of the religious denominations in education. According to Glendenning (1999, p. 20), the balance of power in education traditionally favoured the churches 'who achieved control over the two main pillars of the system; ownership of individual schools, and control of teacher education or training'. Furthermore, Farry (1996, p. 56) opines that Article 42.1 is 'undoubtedly of clerical origin'. This is borne out in statistics within the Report of the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector (2012) which observes that ninety six percent of schools are under denominational patronage; with almost ninety per cent under the control of a Catholic patron (Coolahan *et al.*, 2012). With regard to education, Catholic social principles derive predominantly from Papal Encyclicals and canon law. The Papal Encyclical *Quadragesima Anno*, published in 1931, viewed state activity in education suspiciously and

promulgated the principle of subsidiarity (De Groof, 1994). This political doctrine emerged as a principle of Catholic social teaching.

Glendenning (2008, p. 53) notes that the Catholic Church ‘perceives education as a right and duty of parents and the family’. Moreover, De Groof (1994) opines that the Catholic Church does not contest the educational role of the State in relation to its citizens; it clearly views such a role as subsidiary, its duty being to protect the rights of the child only in cases of parental default, incapacity or misconduct.

1.6 Role of the State in Education

The principle of state subsidiarity is embodied in Article 42.5, which holds that:

In exceptional cases, where the parents for physical or moral reasons fail in their duty towards the children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents (Article 42.5).

This principle suggests that the State’s role is a subsidiary role, unless the common good of children is under threat, and the parent’s role is the primary one in education. The use of the term ‘common good’ in Article 42.5 contrasts with the term ‘public good’ in Article 42.4:

The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiatives, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation (Article 42.4).

Farry (1996, p. 165) analyses the difference between ‘common good’ and ‘public good’ in the context of the Irish language wording of ‘mhaiteas phoibli’ and ‘leasa an phobail’ and finds that ‘there is no significant difference between the terms common good and public good’. In

respect of the common good the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector (2012) purports that: 'It is not always easy for public policy to secure a balancing of rights for all its citizens, but it is incumbent on states to make every effort to do so' (Coolahan *et al.*, 2012, p. 6).

In practical terms the school becomes a necessary social institution to educate children. The State and school management authorities ensure that qualified teachers are appointed to educate the child and parents entrust teachers to do this. The State provides salaries for teachers who become parental delegates; being in *loco parentis* in the course of their professional duties in schools (Glendenning, 1999). Similarly, Adams (1993, p. 102) refers to teachers as being 'parent substitutes', standing in place of the natural parents. Interestingly, under British law teachers are regarded as additional parents to the children to whom they are responsible (Partington and Wragg, 1989). The common law incorporated this principle of *loco parentis* which was upheld by the Supreme Court in *Murtagh v Board of Management of St. Emer's National School* [1991] 2 ILRM 549. The principle arises as parents have entrusted their children to the care and control of the school.

Harris (1992) contends that the State is, in effect, assuming a parental responsibility. He articulates that 'the distribution of legal responsibility for the education of children is such that parents have, in effect, a duty to send their children to school, and the State has a duty to educate them when they get there' (Harris, 1992, p. 62). This is difficult to link with the concept of parental rights in education which could be said to be concerned with the ability of parents to extend their control within the family to their child's formal education. The result appears to be a disharmony between individual parent choice and the collectivist focus of the

State or of clerical institutions. However, Glendenning (1999, p. 71) notes that this process is equally constraining on the State as it is on parents: 'Possibly, the chief advantage of such a constitutional doctrine has been the protection it has afforded against the excesses of state orthodoxy in education'. This feature of constitutional law means that prescriptive imposition of state educational policies through legislation without consultation with parents is not generally available to the State. This concurs with Honahan's (2002, p. 5) portrayal of a civic republic, when she states that: 'Social forces or institutions of government are balanced against one another, to prevent the domination of the State by particular interests and thus to realise the common good of citizens'.

1.7 Parental Autonomy

While state policy is curtailed by the constitutional feature of the rights of parents, parental autonomy is equally constrained by the need for state provision of education to be efficient and economical, which means that policy considerations might outweigh individual parental preference. In this regard, Adams (1983) contends that for many years schools and teachers have bluffed parents over their rights. Gaire and Mahon (2005, p. 29) present an alternative viewpoint, namely that 'parental rights are scattered throughout the various Acts rather than being tidily gathered together in one place, and so it is not easy to discover exactly what they are'. Parental autonomy is arguably further constrained by the evolution of the centralist character of the Department of Education and Skills, which contrasts sharply with its perceived subordinate constitutional role, which builds on the subsidiary principle. In this regard, Walsh (2009, p. 312) notes that 'the transformation of the educational system, which began in the early 1960s, was driven by the reforming policies adopted by the State'. As a

result of these issues Glendenning (1999, p. 68) contends that parents are merely 'theoretically at the apex of the pyramidal constitutional structure supporting education'.

1.8 Balancing Rights of Stakeholders

It is evident in the literature that a number of factors contributed to bring about the subordinate position of parents in Irish education by comparison with the more central role of the school owners and the State. In this respect, educational policy and practice have arguably diverged from the constitutional plan for education as envisaged. This places an enormous responsibility on the Supreme Court, as chief arbiter of the Constitution, to protect the sentiment of Article 42.1 while finding an equitable equilibrium between the various stakeholders in primary education. Glendenning (1999, p. 61) defines this as 'a process which requires rational analysis and perceptive balancing of the intersecting rights and duties arising from broadly stated constitutional principles such as parental primacy, the natural and imprescriptible rights of the child, the political doctrine of state subsidiarity and the role of the State in education, in a manner which reflects the needs and realities of a changing society'. O'Mahoney (2006, p. 26) contends that the Irish system has failed to do this: 'The law has struggled to strike an appropriate balance between the interests of the various parties in cases where they have come into conflict'. However, Osborough (2000, p. 134) highlights the difficulties facing the courts:

Education problems supply one of the litigation battlefields of the modern Republic. All the protagonists - the State, the churches, the teachers and their unions, the local community, the parents, the children too - have individual interests which they wish to see upheld. The difficulty, which so frequently precipitates the lawsuit, is that in seeking to uphold the interests of one set of protagonists, it is commonly impossible to do otherwise than to interfere with, and sometimes even substantially downgrade, the interests of one, if not more of the other sets.

There have been a number of landmark decisions since 1937 in which the courts acted as chief arbiter of the Constitution with regard to the rights of parents to control children's education. The first of these was *Burke and O'Reilly v Burke and Quail* [1951] IR 216. In this case 'M' had given the remainder of her estate in her will to trustees for the purpose of maintaining her son, educating him in Ireland and bringing him up as a Catholic. She directed that the selection of a Catholic school should be at the absolute discretion of the trustees. Mr. Justice Gavin Duffy held that this direction was inoperative because it conflicted with the right of the parent to control the education of her child conferred by Article 42 of the Constitution. Interestingly, the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector (2012) expresses the principle that the rights of individual parents have to be balanced against the common good (Coolahan *et al.*, 2012).

1.9 Parental Choice

Theoretically, parents are given with the constitutional right from the State to educate their child according to their own choice of method. This arises from Articles 42.2 and 42.3.1, which prohibit the State from designating any particular type of education or venue for it:

Parents shall be free to provide this education in their homes or in private schools or in schools recognised or established by the State (Article 42.2)

The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State (Article 42.3.1)

In *Re State (Doyle)* [1989] ILRM 277 at page 280 Maguire C.J. held that: 'Article 42.2.3 appears to us expressly to secure to parents the right to choose the nature of the education to be given to their children and the schools at which such education shall be provided and this right is a continuing right'. Although Article 42.2.3 does not exist it is generally considered

safe, within academic legal commentary, to assume that Maguire C.J. intended to rely on Articles 42.2 and 42.3 as both are imbued with the concept of parental choice. In this respect, Gaire and Mahon (2005, p. 178) perceive that ‘many people are unaware that the Irish Constitution gives parents the right to choose where their child is educated’.

In relation to Article 42.3 Farry (1996) observes that since it prevents the State from obliging parents to send their children to any particular type of school, parents, therefore, have the exclusive right to choose the type of school that their children shall attend. However, Farry (1996) also observes that parents cannot insist upon their children attending a particular school that refuses to enrol them. Interestingly, Section 6 of the Education Act, 1998 establishes its endeavour to ‘promote the right of parents to send their children to a school of the parents’ choice having regard to the rights of patrons and the effective and efficient use of resources’. In this regard, O’Mahoney (2006, p. 124) articulates that ‘it would be entirely impractical to guarantee parents an absolute right to choose the school that their children are to attend’. Additionally, the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector (2012) affirms that there is no absolute right to a school of one’s choice (Coolahan *et al.*, 2012).

Parental freedom of choice is further qualified by the provisions of the Education Act, 1998 relating to the admissions’ policies of schools. Gaire and Mahon (2005, p. 178) note that ‘one of the fundamental objectives of the Education Act, 1998 is to promote the right of parents to send their children to a school of the parents’ choice’. The Act requires schools to establish and maintain an admissions policy to be executed by the board of management which provides for maximum accessibility to the school and which respects equality

principles. A refusal by a school to admit a child can be appealed by the parents of the child to the Secretary General of the Department of Education and Skills. The courts have a limited role in this area. In *O'hUallachain v Burke* [1998] ILRM 693 Murphy J. held that the sole function of the courts in any such dispute is to determine whether the decision of the board of management was reached on a fair and rational basis; the courts will not under any circumstances substitute their own decision for that of the board. Thus, while parents have a constitutional right to choose the type of school at which their children should be educated, they are not entitled to insist upon a particular school.

Parents may choose to exercise their right to educate their children at home or they may send their children to private schools or to schools recognised or established by the State. The primary sector is comprised of primary schools, special schools and non-aided private primary schools. Additionally, the Educate Together movement, founded by parents in 1984, co-ordinates the multi-denominational state-funded sector. A further parental movement in education took place in the 1970s and sought education for children through the medium of Irish; Gaelscoileanna Teoranta became a support group for these schools. An Forás Patrúnachta established patronage rights for all Irish medium schools. Schools under its aegis operate as denominational, inter-denominational and multi-denominational, depending on the wishes of the parents (Coolahan *et al.*, 2012). In reality, however, the choice of national school is limited stemming from geographical and marginalisation issues. Coolahan *et al.* (2012) observe that: 'Such agencies as Educate Together and Gaelscoileanna have brought more diversity to the provision of primary schools, but they still only form a very small percentage of the overall number of national schools, at less than 4 per cent'. Furthermore, Glendenning (1999, p. 70) notes that 'while constitutional theory bestows a wide choice of school on parents, in practice, parental choice is extremely narrow as few alternatives exist to

the traditional denominational school'. The constitutional theory referred to by Glendenning (1999) in this regard is Article 42.4. O'Mahoney (2006) refers to the lack of any real freedom of choice as a discrepancy between legal theory and practical reality. Clarke (1984, p. 201) observes that freedom of educational choice for parents is 'only a charade if it means freedom to choose between a limited number of religious schools'. In this regard, Coolahan *et al.* (2012, p. 28) observe that: 'Ireland is being increasingly criticised by a range of international agencies for the lack of balance in the character of its primary school system, which is so heavily dominated by denominational schools'.

Traditionally, parents have exercised their constitutional right to educate through the agency of the churches. However, this translates to a situation where the State is funding a single type of education, which is precisely the type of scenario which Laffoy J. purported would 'pervert the clear intention of the Constitution' (*O'Shiel v Minister for Education* [1999] 2 ILRM 241 at page 263). Duncan (1996) alleges that Article 42, with its emphasis on the doctrine of parental autonomy, indirectly consolidated the power of the churches within the educational system. However, Farry (1996, p. 159) notes that:

The failure of the State to develop an alternative system of non-denominational or multi-denominational schools has provoked disquiet in some circles about denominational control of the system which they claim is based on the ownership of property and on the rights of religious denominations'.

In this regard, Walsh (2009, p. 10) notes that 'the Department of Education did not challenge the predominant position held by clerical managers or religious orders within primary and secondary education until the 1960s'. Glendenning (1999, p. 107) traces the development of this concept from the perspective of the State:

Many benefits accrued to Irish society during the years when the State was grossly under resourced and relied heavily on church participation in education. With the advent of a more prosperous society has come a more assertive State role in education, which in turn implies greater State responsibility for education.

Notwithstanding the range of reasons purporting to outline the historical emergence of the dominant position of the churches, the Report of the National Education Convention (Coolahan, 1994) acknowledged the emergence of a more pluralist society and the demand of different groups of parents for other types of schools than denominational schools. This trend was further evident from the pattern of school establishment since 1990 including the parent-led Educate Together and Gaelscoileanna movements. Indeed in the case of *Crowley v Ireland* [1980] IR 102 at page 123, the Court placed an obligation on the State to pursue ‘alternative or other means or methods’ of education in meeting the demands of parental choice. In this respect, Gaire and Mahon (2005, p. 1) further articulate that:

There is a growth in the options available to many parents. As well as the regular national schools that have been providing the basic education to the children of the island since the early nineteenth century and which were, until fairly recently, the only option available for most families, there are several other modes available in many, although not all, parts of the State.

O’Mahoney (2006, p. 127) notes that ‘the provision of a parallel system of multi-denominational education would seem adequate to discharge the State’s duty to fund alternative forms of education’. The Department of Education and Science convened a National Conference in 2008, *The Governance Challenge for Future Primary School Needs*, to consider many aspects of education in an increasingly multicultural society (Coolahan, 2008). In this regard, the Archbishop of Dublin, Most Rev. Dr. Diarmuid Martin stated:

The Catholic school will only be able to carry out its specific role if there are viable alternatives for parents who wish to send their children to schools inspired by other philosophies. The demand is there. The delay in provision of such alternative models has made true choice difficult for such parents (Martin, 2008).

In 2011 the Forum on Patronage and Pluralism in the Primary Sector was initiated, in relation to determining options for the divesting of patronage. In undertaking its work the Forum had regard for the expressed willingness of the Catholic Church to consider divesting patronage of primary schools (Coolahan *et al.*, 2012).

According to the Constitution, legislation which provides for the funding of schools by the State, such as the Education Act, 1998, may not discriminate between denominationally managed schools:

Legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations (Article 42.2.4)

However, as the case law indicates, this can be interpreted as being necessary if the purpose of such funding is to facilitate the protection of constitutionally-recognised rights or to permit the State to fulfil its obligations to respect such rights (*McGrath v Trustees of Maynooth College* [1979] ILRM 166). The attendance at either denominational schools or non-denominational schools is a choice which the courts deem to be for parents to make on behalf of their children; however, this is subject to a particular minimum standard of education.

1.10 Minimum Standard of Education

The Irish courts have acknowledged the rights of the various stakeholders in the process of educating the child; however, the courts traditionally have upheld the primacy of parental choice in primary education. It is a presumption that where the family based on marriage exists and is discharging its functions as such and the parents have not for physical or moral reasons failed in their duty towards their children, their decisions should not be overridden by

the State or in particular by the courts in the absence of a jurisdiction conferred by statute (Glendenning and Binchy, 2005). This principle is subject only to the State's right to guarantee minimum standards of education. This is stated in Article 42.3.2 of the Constitution:

The State shall, however, as guardian of the common good, require that the children receive a certain minimum education, moral, intellectual and social.

The existence of this duty, laid upon the State by the Constitution, limits parental rights in this regard into the State's right to require that all children attain a minimum amount of education either in school or at home.

A number of constitutional cases have upheld the right of parents to decide what type of school they send their children to, as well as to educate them at home as necessary, so long as the State is satisfied that a minimum standard is achieved there. The State must make arrangements to have this minimum education provided for and this has been borne out in *Re Article 26 and the School Attendance Bill* [1942] IR 334. The Oireachtas, the legislature of Ireland, has discharged its duty in this regard by enacting the School Attendance Acts, 1926-1927, which require children, between six and fourteen years to attend school, unless an exemption is sought under Article 42.2. The School Attendance (Amendment) Act, 1967 raised the upper age-limit for compulsory schooling to fifteen years. The Education (Welfare) Act, 2000 provides for the compulsory attendance of children of six to sixteen years, who are resident in the State, at recognised schools and for the registration of children who are receiving education in places other than recognised schools. The National Educational Welfare Board (NEWB) is an independent body, which was set up under the Education (Welfare) Act 2000 with the main responsibility of providing new services to

encourage and promote attendance at school and to ensure that children and young people attend appropriate education and training. From September 2009 the NEWB is responsible for a single co-ordinated School Support Programme, bringing together the Home School Community Liaison Scheme, the School Completion Programme and the Visiting Teachers Service for Travellers. Parents are required to ensure that their children attend school or otherwise receive an appropriate minimum education. The lower age-limit at which children must attend school has not been changed by legislation since 1926, which indicates that parents who are sending their child to school at the age of four are vesting the State with the interest of educating the child two years prior to the legal age of school attendance at six years old. It appears that parents have to delegate their primary role to the State when their child reaches the age of six, as the child must attend school. In this regard, the Department of Education and Skills' website states that: 'Attendance at full-time education is compulsory for all children between six and sixteen years of age. Although children in Ireland are not obliged to attend school until the age of six, almost all children begin school in the September following their fourth birthday' (www.education.ie, accessed 22/07/2011).

The fixing of an age at which children must attend school highlights a contradiction with the constitutional position of parents. However, Spodek and Saracho (1994, p. 205) suggest that the requirement of school attendance 'grows as much from the cultural need to maintain the social order as from the personal needs of children and their parents'. While the age at which children must attend school has been defined by statute, the 'certain minimum standard' of education that they are to receive at school is not as easily determinable.

The nature of what this certain minimum education will constitute has not been defined either in the Constitution or in statute. Section 4 of the School Attendance Bill, 1942 attempted to address this and stated that:

A child shall not be deemed for the purposes of this Act to be receiving suitable education in a manner other than by attending a national school, a suitable school or a recognised school unless such education and the manner which such child is receiving it, have been certified under this section by the Minister to be suitable.

The School Attendance Bill, 1942 proposed to give the Minister, through the agency of the Inspectorate, the power to specify what constituted a suitable education and further aimed to make better provision for ensuring school attendance by children to whom the School Attendance Act, 1926 applied and for that purpose to amend the said Act. Political opposition surrounded the School Attendance Bill, 1942, as it was perceived to target Article 42, which, effectively, safeguards the rights of parents. The School Attendance Bill, 1942 and amendments to it were passed through both houses of the Oireachtas; however, the Bill was referred by the President, under Article 26, to the Supreme Court to test its constitutionality. The Supreme Court dealt predominantly with the State's powers to require a minimum education under Article 42.3.2 (Glendenning, 1999). The Court held that while it is quite likely that the term 'certain minimum education' was intentionally left undefined by the framers of the Constitution, the State acting in its legislative capacity through the Oireachtas, had the power to define this phrase (*Re Article 26 and the School Attendance Bill* [1943] IR 334). The Court held that the meaning of the phrase indicated 'a minimum standard of elementary education of general application' which might be regarded as 'the lowest standard appropriate to the attainment of the common good' (*Re Article 26 and the School Attendance Bill* [1943] IR 334 at page 335). The Court concluded that while the State has a right to require that children receive a certain minimum education it is not entitled to specify the manner in which that education is provided. Accordingly, Section 4 of the School

Attendance Bill, 1942 had violated this principle and was repugnant to the Constitution. The legislation was never redrafted and no attempt has been made since to determine the phrase ‘certain minimum education’. The Supreme Court objected to the School Attendance Bill, 1942, inter alia that if section 4 was passed into law, a higher standard might be required by such law than that which was prescribed by the Constitution as a minimum standard in Article 42.3.2 (Glendenning, 1999). The opposite of this objection was put forward in the submission by the Department of Education to the Report of the Constitution Review Group in 1996, that the absence of a more precise definition of a ‘certain minimum education’ might leave the State open to a charge that the level of education as required by the State was either lesser or greater than the minimum envisaged by the Constitution (Government of Ireland, 1996). However, these fears have been highlighted by the High Court in the case of *DPP v Best* [1998] 2 ILRM 549 which involves the provision of education to a minimum standard at home.

1.11 Home Education and Parental Rights

Parents have a constitutional right to educate their children at home under Article 42.2 of the Constitution. The right to educate children at home has been asserted by several international Conventions including the European Social Charter, 1961 and the United Nations Convention on the Rights of the Child (1989). In Ireland the right to educate at home is subject to the State’s right as guardian of the common good to ensure that the minimum standard of education is met. Furthermore, the right to home educate has been upheld by the High Court in the case of *DPP v Best* [1998] 2 ILRM 549. The respondent mother in the Best case had been charged with an offence under section 17 of the 1926 Act for failing to send her three children to school. She contended that she was educating her children at home and had a

constitutional right to do so once she met the constitutional minimum requirement. The court findings established what had already been determined by the Supreme Court in *Re Article 26 and the School Attendance Bill* 1942 IR 334 and that after six years the State has not defined 'a certain minimum education'. A definition was not provided for in the Education Act, 1998 either. However, Section 14 (1) of the Education (Welfare) Bill 1999 provided that the Minister, following consultation with the National Council for Curriculum and Assessment, may determine a minimum education to be provided to each child and that different minimum standards of education in respect of children of different ages and of different capacities may be so prescribed. It can be deduced that whether children are educated at home or in school, parents will not have authority as to what exactly will be on the curriculum.

1.12 Parents and the Curriculum

It follows from a strict analysis of the role of parents as primary educators that parents should be responsible for the design of the curriculum which will be provided for their children. A difficulty arises when this concept clashes with practical issues such as numbers of children in a school and expertise at curriculum design. Whalley (2000) notes that the notion of parents and professionals working together as equals on curriculum issues seemed a fairly radical idea when the idea was conceptualised during the early 1970s in circumstances where the idea was threatening to professionals. Adams (1993) broadly reiterates this concern stating that if parents choose to send their children to a school then they have no other option but to accept both the curriculum of that school and the way in which the curriculum is delivered. Adams (1993, p. 77) strives to protect the professionalism of teachers and states that: 'Parents have a right to know the content of the curriculum but they cannot directly influence how it is delivered in the classrooms...that is a professional matter for the Principal

and staff'. The Department of Education and Science (2000) extends this principle and contends that not only should parents know the content of the curriculum but should be involved in organisational planning for the curriculum as identified by the school plan. This has further been extended through the National Parents Council Primary whereby parents have an input in the development of curriculum framework. Athey (1990, p. 20) submits that this process should not have a legal standing: 'Legislation cannot decree that parents and professionals should work together to increase knowledge of child development or to work out ways of how an offered curriculum might more effectively become a received curriculum'. This is an interesting statement considering that parents have the constitutional right to educate their children but no legal right to determine what that education will entail; a concept manifestly evident from the compulsory premise of the Irish language. Farry (196, p. 82) asserts that 'the rights of parents would seem to extend to curricular matters' in circumstances where intellectual education is expressly cited within Article 42.1. The difference in opinion in academic commentary pertaining to the role of parents in curriculum matters extends to their role in school administration.

1.13 Parental Involvement in School Administration

Glendenning (1999) points out that the constitutional doctrine of parental primacy did not translate into parental involvement in school administration. The Report on Investment in Education (Government of Ireland, 1965) revealed, according to Coolahan (1981), an Irish educational landscape in which parents had no noticeable place. However, this must be contextualised within the premise that the State's approach to education had changed 'beyond all recognition' by the early 1970s (Walsh, 2009, p. 326). Indeed, the Advisory Group on the Forum on Patronage and Pluralism in the Primary Sector establishes that:

While the rights of parents regarding the education of their children were given impressive expression in the Constitution, the active involvement of parents in policy-making or administration in the schooling system was extremely limited. In the 1960s, parents began to be more expressive concerning their marginalisation (Coolahan *et al.*, 2012, p. 15).

A lack of statutory status was absent from any localised parental involvement in school administration. However, it must be considered whether the sentiment of Article 42.1 of the Constitution intended that the role of the family as primary educators would be synonymous with the role of primary school administrator. Or perhaps Article 42.1 intended that parents could choose to educate children at home or could choose the school in which their child would be educated. The difficulty emerges when attempting to link parents' rights to educate their children with the delegation by parents to schools to undertake this task for them. It appears that in today's society the various stakeholders are linking or attempting to link the primary educator role of the parent with an equally primary role of school administrator. This can be observed by tracing the recent legislative developments involving parents in the schooling system. Wolfendale and Wooster (1996) note that various acts have enshrined and latterly strengthened a number of parental rights.

1.14 Education Act, 1998

In the discharge of its constitutional obligations under Article 42 the State has enacted the Education Act, 1998, which makes provision in the interests of the common good for the education of every person in the State. The Rules for National Schools under the Department of Education, published in 1965 had no statutory basis (Farry, 1996). Glendenning (1999, p. 10) purports that 'with the passing into law of the Education Act, 1998, Ireland has taken its first step in the enactment of a legislative framework for its informal, denominational system

of education'. Under the 1998 Act, the Minister has statutory responsibility, inter alia, for the level and quality of education delivered to every person in the State. This bestows the Minister with the statutory responsibility for the education of the child and contradicts somewhat the parental responsibility under the Constitution by arguably exceeding the role of the State as governed by Article 42.3.2. Under the Education Act, 1998 parents have received a number of statutory rights and also consultative status.

Statutory recognition has been given to the National Parents Council Primary. Parents have a statutory right to establish parents' associations in schools and to have representatives included on the boards of management of schools. They are entitled to receive copies of any reports produced by the board of management and have full access to the school accounts. Parents are legally entitled to be involved in the preparation of the school plan and have access to copies of it. They have a right of access to their children's school records. There is also an appeal system established for parents to appeal to the board of management in respect of a complaint against a teacher or member of staff of the school. The position of parents has certainly been strengthened by the changes brought about in the Education Act, 1998. Walshe (1999) notes that these changes do not amount to the full realisation of the equal partnership that successive Ministers of Education have promised. However, the OECD/CERI Report *Parents as Partners in Schooling* (OECD, 1997) notes that various proposed measures meant that Ireland was about to have one of the most 'parent-participative' education systems in the world. This strengthening of the position of Irish parents has been further affected by the assertiveness of parents in the establishment and management of schools. It appears that this change came about slowly in the Irish context as noted by Walshe (1999, p. 87): 'Irish schools were slower in broadening the base of

management to include parents and teachers than in many other developed countries'. This change came about by the inclusion of parents on boards of management.

1.15 Parental Involvement on Boards of Management

The State established boards of management in 1975 and parents were involved, for the first time, albeit in a minority position, with the patron's nominees in the management of schools; an initiative described by Coolahan *et al.* (2012) as the first significant change in the management of national schools since the establishment of the system in 1831. In 1992, the Green Paper on Education, *Education for a Changing World* (Government of Ireland, 1992), envisaged a more responsible role for boards of management including the re-constitution of boards with a minority representation from the patron. Furthermore, the White Paper on Education, *Charting our Education Future* (Government of Ireland, 1995), addressed the role of the State in regulating school governance. Section 14 of the Education Act, 1998 grants statutory recognition to boards of management:

It shall be the duty of a patron, for the purposes of ensuring that a recognised school is managed in a spirit of partnership, to appoint where practicable a board of management.

Section 14, notably, places no obligation on primary schools to have boards of management. Glendenning (1999) notes that at that time the Minister of Education was firmly of the view that the composition of boards of management should reflect the increasing desire for partnership in the running of schools on the part of parents and teachers citing the family as the 'primary and natural educator'. Part four of the White Paper on Early Childhood Education, *Ready to Learn* (Government of Ireland, 1999), also dealt with the role of parents. It promised statutory entitlement to parental representation on all school boards of

management and education boards; statutory right of access to their children's records in schools; a statutory duty on boards of management to promote the setting up of parents' associations; the involvement of parents in the preparation of school plans; right of appeal to the education boards; the rights of parents, through the National Parents Council Primary, to be consulted on important educational matters; and training programmes for parents (Walshe, 1999). The final part of the White Paper on Early Childhood Education, *Ready to Learn* (Government of Ireland, 1999), dealt with the legal framework and the agenda for the implementation of change. This section did not attempt to interpret the Constitution but instead identified the variety of constitutional rights which exist, including parents', children's and religious denominations'. In this regard, Walshe (1999, p. 42) notes that 'change would be implemented as far as possible on a partnership basis in consultation with the concerned interest as appropriate and necessary'. One of the ways in which parents are represented as a concerned interest is through parents' associations.

1.16 Parents' Associations

The First National Report of Ireland on the United Nations Convention on the Rights of the Child, 1996 states that parents' associations have been established in individual primary and second level schools 'in order to promote and develop effective participation by parents in education' (Department of Foreign Affairs, 1996, p. 35). This report was published six years after the Irish Government signed the United Nations Convention on the Rights of the Child in 1990. Interestingly, the report describes parents as participating in education as opposed to being partners in education. However, the Education Act, 1998 views the role of the national association of parents as 'assisting parents in exercising their rights and role in the process of the education of their children' (National Parents Council Primary, 2010, p. 62). Similarly,

the National Parents Council Primary refers to involvement of parents rather than partnership with parents.

1.17 The National Parents Council Primary

The National Parents Council Primary, established in 1985, is the nationwide organisation for parents of primary school children and is recognised by the Education Act, 1998. It undertakes to assist parents in exercising their rights. The Council aims ‘to help improve parental involvement at school level’ (National Parents Council, 2002, p. 6). This sentiment is echoed by Coolahan *et al.* (2012, p. 16): ‘The parents’ voice in schooling became much more co-ordinated through the establishment of the National Parents Council’. Walshe (1999) observes that the importance of the NPC was noted by the OECD in its review of Irish education. It suggested that with the establishment of the NPC ‘the idea began to be entertained that parents should be actually, and not merely constitutionally, partners in the education process’ (OECD, 1991, p. 59). Notably, the literature pertaining to the National Parents Council Primary contains many differing interpretations of both the role of parents as partners in the education process and the role of the Council itself.

The Chairperson of the Council refers to parents as clients of an education system and views the role of the Council as one of assisting parents in taking action if the education system does not satisfy them as clients (National Parents Council Primary, 2010). Walshe (1999) also considers the role of the NPC as one of assistance to parents in the context of organising them as a group. This concept of enablement of parents is one of the four key goals cited by the National Parents Council Primary, namely ‘to help parents to get the support they need

for their role as educators' (National Parents Council Primary, 2010, p. 6). In order to do this the National Parents Council Primary runs a national programme for parents offering them training, development and support in their involvement with their children's education and as partners in the education system. The purpose of the training and development programme is to offer parents skills and support, and to help them to be actively involved in their children's education at every level. The National Parents Council Primary has also researched the operation of parents' associations and parental involvement on boards of management of primary schools (CECDE, 2006). Furthermore, the Council provides training for parents on boards of management and on new parents' associations. In addition to its role of enabling parents, the National Parents Council Primary is a member of European Parents Association. The Council also engages with student teachers in colleges of education and has worked on different modules in colleges on participation with parents. A further statutory body which seeks to promote partnership with parents is the Teaching Council.

1.18 The Teaching Council

The Teaching Council was established on an independent statutory basis in March 2006 as the professional standards body for teaching. However, as indicated by the *Report of the Steering Committee on the Establishment of a Teaching Council* (Department of Education and Science, 1998), the Teaching Council does not reflect just the views of teachers but also those of the main partners in the system. These partners include the Department of Education and Skills, teacher educators, school management, parent organisations and the general public, who through their membership on the Council will work in partnership with the teachers in promoting quality and high standards (Department of Education and Science, 1998). The overarching objective of the Council is to 'enhance the quality of the education

service by providing teachers, assisted by the education partners, with a formal structure to regulate their profession' (Department of Education and Science, 1998, p. 13). Out of thirty seven members of the Council there are two parents nominated by the national parents' associations.

Having outlined the constitutional and national framework within which the legal and policy position of parents can be examined, this dissertation now presents the international lens which further seeks to frame the research question. The pursuit of increased legal parental rights in the education of their children is evident at both Irish and European level.

1.19 European Union Law

Glendenning (1999) purports that the international treaty that is most significant in education in Ireland is perhaps the European Convention on Human Rights. The ECHR was signed in 1950, entered into force in 1953 and incorporated into domestic law through the European Convention on Human Rights Act, 2003. O'Mahoney (2006) confirms that the ECHR now enjoys a degree of domestic force and is more than a mere aspiration. Notwithstanding an intention to include an article purporting to education in 1950, the education article was not entered into force until Article 2 of Protocol 1 of the ECHR on 18 May 1954. The enormous difficulty with formulating the wording of a right to education is evident from the extensive preparatory documents and the postponement of the inclusion of a right to education to the First Protocol of the ECHR (Teigten, 1985). This difficulty stemmed from complex issues facing the international drafters.

One of these issues was whether the right to education was sourced in natural law. If the right was grounded in natural law, this would dictate that parents alone were vested with the divine right to educate their offspring and neither the church nor the State had the right to intervene. However, if the State was legislating for the protection of the right to education of the child, this presented difficulties regarding the degree to which the rights of parents were safeguarded, since the State would be assuming major responsibility for the education of children. An issue was raised in relation to whether the right of every person to education should impose a corresponding obligation on the State to ensure that every person is educated. The issue of whether state provision of religious education was an obligation was also discussed. A further discourse emerged in relation to whether the right to education should be vested in the parent or the child.

As a result of these issues, Article 2 of Protocol 1 of the ECHR became one of the most contentious articles of the Convention according to Glendenning (1999). The final text of the article read:

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.

This article contains three components. First, the State shall not interfere with an individual's exercise of the right to education. It could be interpreted that the negative formulation of the article does not go so far as to indicate that the State must provide educational opportunities. Arguably, the State is placed in a strong position by this component because, in order to challenge the State, an aggrieved party would have to prove that the State actually denied the party an education, which is a higher burden of proof than proving that the person did not

have the right to education, which automatically defaults on the State to provide that right. The European Court of Human Rights held that Article 2 Protocol 1 does not require the State to provide any education at all, but rather confers a right of access to educational establishments existing at a particular time (*Belgian Linguistics Case* [1980] 1 EHRR 252). However, Van Dijk and Van Hoof (1998, p. 647) recommend interpreting Article 2 Protocol 1, using an approach which is similar to the approach of harmonious interpretation of the Irish Constitution:

Denying a person the possibility to receive primary education has such far-reaching consequences for the development of the person and for his possibilities to enjoy the rights and freedoms of the Convention to the full that such a treatment is contrary, if not to the letter of Article 2, at all events to the whole system of the Convention, in the light of which Article 2 has to be interpreted.

In this regard, O'Mahoney (2006) points out that it should be borne in mind that the State parties to the ECHR all had a system of free primary education in place at the time that Article 2 Protocol 1 was drafted and it could therefore be argued that the continuation of this position is a minimum requirement of the Protocol.

The second component of the article grants the State discretion with regard to educational provision and does not guarantee the right of any person to any particular education which he either deserves or desires. Again the article grants the State some protection in the form of a discretionary right to determine aspects of the right to education. The final element of the article concerns the right of parents in regard to their children's education. The component infers that parents have the right to ensure that education is provided in accordance with their own religious and philosophical convictions. However, it could also be inferred that the duty to provide this education does not automatically rest with the State. The duty of the State is

rather to respect the rights of parents who must ensure that education takes place. Other aspects concerning the right to education are also solidified by United Nations law.

1.20 United Nations Law

Aspects concerning the right to education are also included in the United Nations International Covenant on Economic, Social and Cultural Rights (1966) and the United Nations International Covenant on Civil and Political Rights (1966). The rights protected in the Covenants stem largely from the Charter of the United Nations (1946) and the Universal Declaration of Human Rights (1948). Article 26 (1) of the UDHR states that education shall be free 'at least in the elementary and fundamental stages'.

1.20.1 International Covenant on Economic, Social and Cultural Rights, 1966

Article 13.2 of the ICESCR provides that:

The States Parties to the present Covenant recognise that, with a view to achieving the full realisation of this right: Primary Education shall be compulsory and available free to all.

The ICESCR goes on to extend a similar right at secondary and higher education level and to those who have not completed the whole period of their primary education. Glendenning (1999, p. 256) states that 'it is clear that the ICESCR puts in place a hierarchy of state educational obligation which is analogous to the provisions of Article 42.4 of the Irish Constitution, with the heaviest burden resting at first level'.

1.20.2 The United Nations Declaration of the Rights of the Child, 1959

The United Nations Declaration of the Rights of the Child (1959) states that:

The best interests of the child shall be the guiding principle of those responsible for his education and guidance. That responsibility lies in the first place with his parents.

Robson and Smedley (1996) note that this may have additional importance in the early years, when children have their first encounters with organised education and care settings, and when parents may be particularly anxious about how their child copes with these first transitions.

1.20.2.1 The United Nations Convention on the Rights of the Child, 1989

On 20 November 1989 the General Assembly of the United Nations unanimously endorsed the Convention on the Rights of the Child. The UNCRC was ratified in Ireland in 1992. It entitles the child not only to the right to education, to access to education and to educational guidance but also to specific rights when in educational institutions. As in the ICESCR the primacy of primary school level is evident in the UNCRC. The adoption of the child into the state-parent relationship signalled a change in international law (Glendenning, 1999).

The National Children's Strategy recognises that a number of the rights set out in the UNCRC are already provided for in the Constitution, either expressly or implicitly (National Children's Strategy, 2000). Other rights pertaining to children are provided for in legislation. Article 3.1 of the UNCRC states that:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Although this welfare principle appears in a number of Irish Statutes relating to children, it is absent, at least in its express form, from the Constitution.

On 16 February 2010, the Joint Committee on the Constitutional Amendment on Children published its third and final report detailing proposals for a constitutional amendment to strengthen children's rights (Government of Ireland, 2010). The Final Report of the Joint Committee on the Constitutional Amendment on Children 'considers and makes recommendations in relation to the proposed constitutional amendment concerning the acknowledgement and protection of the rights of children, the best interests of the child, the power of the State to intervene in the family' (Government of Ireland, 2010, p. 1). The committee proposes a series of amendments to Article 42 including the renaming of Article 42 from 'education' to 'children'. Moreover, the proposed amendment to Article 42.1 broadens the provision, in line with existing case law, to include the role of the child's parents as not only 'primary educators' but also 'primary carers' and 'protectors of the welfare of a child' (Government of Ireland, 2010, p. 67).

An extremely unusual aspect of the right to education is that, unlike other rights which involve a right of the individual and a corresponding duty of the State, education involves a third protagonist: the parent of the child who is exercising the right to education. O'Mahoney (2006) notes that parents are often involved in the exercise of children's rights; however, in the case of education, they are actually conferred with rights of their own, which they are not merely exercising on behalf of the child.

1.21 Rights of the Child

‘Possibly the major disadvantage of the constitutional bias towards parental autonomy has been the reluctant lack of statutory protection for the child’s right to education’ (Glendenning, 1999, p. 72). Case law has highlighted the principle of parental priority over the rights of the child. This was borne out in 1955 by the Supreme Court in *Doyle v Minister for Education* (Supreme Court, Unreported, 21 December 1955) when it ruled that s10(1)(d) and s10(1)(e) of the Children Act, 1941 infringed parental rights under Article 42. The court considered that the Act deprived a parent, whose child had been sent to an industrial school of the right to resume control of the child and to provide for the child’s education once that parent was willing and capable of doing so. It appears that the sentiment of Article 42.1 of the Constitution intended that not only do parents alone have the right to control the education of their children but that they cannot surrender this right. However, Part III of the Child Care Act, 1991 has made provision for the protection of children in emergencies. This signals a change of direction by the legislature in favour of surrendering parental rights in favour of child protection. However, the power of the State as against parents is subject to strict constitutional constraints as stated in *Comerford v The Minister for Education* [1997] 2 ILRM 134 at page 20: ‘Bear in mind the extremely strong rights given to parents and the family in the Constitution and the comparative lack of express constitutional rights for the child as against the parents’. The constitutional constraint as outlined in this case has curtailed legislators from enacting educational legislation and adequate child protection laws (Government of Ireland, 1996). The Report of the Constitution Review Group (Government Ireland, 1996) recommends that the rights and duty of educating children should remain vested in parents but that this right ought to be subject to the best interests of the child and to the right of the State to ensure that children receive a certain minimum education as may be determined from time to time by law. To this end O’Mahoney (2006, p. 93) states that: ‘The

interests of the child should not be subjugated to those of the parent in a manner which is detrimental to the welfare of the child’.

1.22 Conclusion

This chapter considers the past and present legal and policy context in Irish education to which the role of the parent as primary educator as stated by the Constitution pertains and furthermore considers the response to this constitutional position in the primary sector in Ireland by investigating the distribution of power between the main stakeholders in the educational partnership. The legal nature of this study means that the existing research pertaining to the study should theoretically consist of case law. However, the position of the parent as the primary educator has not been directly litigated in the courts to date. The analysis of literature, policy and legal decisions in this chapter presents a disparity between the role of the parent as stated by the Constitution and the legal and policy position of the parent pertaining to education. This juxtaposition arises ultimately from state policy which aims for congruency with the need to provide an efficient state system of education and a basic minimum standard of education. The collectivist focus of the education system as provided by the State functions in parallel with the individual focus of education for children as provided by parents. While state policy is curtailed by the constitutional feature of the acknowledgment of the rights of parents, parental autonomy is equally constrained by the need for state provision of education to protect the common good, which means that policy considerations might sometimes outweigh individual parental preference. The potential collision of these lateral and interdependent education processes necessitates arbitration and the literature suggests that the system of arbitration, currently in place to vindicate rights within the education system, is the legal system.

This chapter manifestly demonstrates that while parents are theoretically given the constitutionally-based right to be the primary and natural educators of their children by Article 42.1, in practice this is not borne out in either the legal or policy position of parents. It is generally accepted that parents have inalienable rights as primary educators; however, this is no advantage to parents as these rights have not been defined. It appears that constitutional challenges and differing interpretations of the law will occur in the future, especially concerning secular and moral interpretations. Ultimately, it appears that if parents wish to vindicate their right to be primary educators they must exercise that right through the courts, thereby bestowing the court with the role of chief arbiter in educational matters. This notion of reliance on the court to be chief arbiter in educational matters is at variance with the theory of the concept of educational partnership which is the focus of the next chapter.

CHAPTER 2: EDUCATIONAL PARTNERSHIP

2.0 Introduction

Educational partnership with parents emerges as a prominent theme in the literature, discourse and debate on primary education. The main focus of the debate surrounding educational partnership centres on the extent to which parental involvement in schools is promoted and supported, coupled with an exploration of the attaching benefits for children's education in the process. The purpose of this chapter is not to rehearse the detail of that debate but rather to define what exactly educational partnership with parents of children in the primary sector means from an Irish perspective. This chapter further seeks to establish the response to this partnership in the primary school sector in Ireland. There is extensive unresolved debate in literature dealing with the conceptual, methodological and political aspects of educational partnership. The context, justification and rationale of educational partnership with parents must be clarified and a definition of it arrived at. Competing conceptualisations of educational partnership are presented which reflect different responses, including parent education programmes, public relations campaigns and sharing of information between teachers and parents. In order to fully explore partnership with parents, a definition of parenting is examined. The effects of gender, parental differences and the rights and responsibilities of parents and teachers are also highlighted as they impact upon educational partnership. The difficulties with educational partnership which include parental, teacher and market-based obstacles are explored. This chapter ultimately seeks to define both educational partnership as a concept and the response to it in the primary sector in Ireland by investigating the distribution of power between the main stakeholders in the educational partnership.

2.1 The Rationale for Educational Partnership

Much of the research in the Irish context on parents in the primary sector focuses on promoting and supporting parents and families in their pivotal role as primary educators (CECDE, 2006). Walshe (1999) states that for decades much of the debate about Irish education was dominated by issues of structure, ownership and control of schools whereas now the principle of partnership is firmly rooted in the educational landscape. Landmark initiatives promoting partnership include parental involvement on boards of management; the establishment of the National Parents Council, 1985; the Review Body on the Primary Curriculum, 1990; the National Convention on Education, 1994 and the publication of the White Paper on Education, *Charting our Education Future* (Government of Ireland, 1995). Advantages which accrue from increased parental involvement in the education of their children have been well documented. The debate as to the merits of partnership appears to have concluded in the consensus that partnership with parents is valuable; a conclusion which is manifestly evident in Ireland's response to the United Nations Declaration on the Rights of the Child (Government of Ireland, 1959, p. 35):

In Ireland it is recognised that the promotion of parental involvement in the education of their children is an essential element of education policy and practice.

Similarly, academic commentary heralds the pertinence of the merits of partnership along with its cardinal standing as highlighted by Page (2000), who states that there is now an overwhelming acceptance of the principle of partnership. Furthermore, Bastiani (1995, p. 101) purports that the benefits of partnership are 'now possible to catalogue with conviction, and support with clear evidence'. However, there is an emergent contradiction between the position of the primacy of the concept of partnership and the purported deficiency of the translation of the principle into an equally strong programme of parental involvement and partnership; this issue provides the basis for consideration and analysis in this chapter.

2.2 Natural Links

It is difficult to discern to what extent partnership is arbitrarily being asserted in circumstances where families and schools cannot avoid some involvement with each other. This arises from the close link that exists between the nature of the two social institutions; a concept embodied by the sentiment of Whalley (2000), who highlights that teachers are in the unique position of coming into contact with children and their parents or carers on a daily basis. Smith (1994) addresses the purported natural link between parents and schools by outlining that parents need to be kept informed of all that happens to their children; how they settle down after starting in school, make relationships, develop and learn. It can definitively be acknowledged that parental participation, involvement and partnership emerged at some level as a result of the inherent natural institutional links of home and school. However, Rodd (2004) notes that the drive for the adoption of a true philosophy of partnership did not gather momentum until the 1990s; as evidenced by Walshe (1999) who highlights the change in focus of the literature in the 1990s to include partnership. In respect of a conceptualisation of what partnership should entail, the literature presents differing opinions in respect of stages of educational partnership and various attaching meanings.

2.3 Stages of Educational Partnership

Whalley (2000) highlights the viewpoint of several writers who have argued that sequential steps should be observed in order to foster educational partnership; however she argues that in reality, given the vagaries and disparities of availability of resources, personalities, agencies, key workers and parents, local policy changes and, not least, sheer opportunity, such carefully structured planning is neither practicable nor even desirable. In this regard, Robson and Smedley (1996) aver that acknowledging that all schools may be at different

points along a continuum is important in assessing what the next steps in moving towards partnership might be in each case.

Robson and Smedley (1996) further suggest that within the home-school arrangement there are unidirectional relationships involving information, contact and involvement, and reciprocal ones that include collaboration and partnership. Spodek and Saracho (1994) note that it is difficult to define partnership in a general way because relationships between schools and parents are as varied as the kinds of schools that exist and the populations they serve. Similarly, Gallie (1968) notes that irrespective of the locus of decision-making, parental, professional or governmental, there are bound to be far-reaching contests about educational priorities since educational values are inherently contestable. In the absence of a stable conceptualisation of partnership in stages, partnership is identified and understood by other academic commentators in terms of juxtaposing and intertwining modes of theoretical meanings.

2.4 Conceptualising Educational Partnership

In order to conceptualise educational partnership from the arbitrary existence of partners in the process, Devine (2003, p. 113) dictates that ‘rights to voice and participation in decision making have tended to focus on hearing adult voices within the system, such as teachers, Department of Education officials, patron bodies and increasingly the voice of parents’. In respect of the role of children in the partnership process Devine (2003) notes that traditional concepts of children’s rights and schooling in Ireland have tended to focus on children’s right to schooling rather than on their rights as a group within the school partnership itself.

In terms of a theoretical conceptualisation of partnership, Bastiani (1995) notes that a striking feature of the term 'partnership' is the huge discrepancy between its common usage and any careful consideration of its possible meanings in circumstances where partnership is a term widely used throughout the education service, to cover a range of situations and circumstances. Its use, or overuse according to Bastiani (1995), is more often than not uncritical, implying that it is highly desirable, unproblematic and easily attainable. Bastiani (1995, p. 104) considers it to be 'a set of interpretations that are hard to grasp, intellectually challenging and, above all, extremely difficult to realise in practice'. In this regard, partnership is promulgated in the literature as being an intangible concept, as embodied by Pugh (1996) who defines it as an elusive concept. Similarly, Fabian (2002) submits that the effectiveness of partnership is most likely to be determined by its perceived quality. In respect of the emerging sentiment in the literature pertaining to the purported excessive and misguided use of the term partnership, it may arguably be more appropriate to consider the concept of working towards partnership, as a worthwhile direction, rather than something which is commonplace. However, for the purpose of this work the term partnership is understood as an overarching collective term of what it seeks to achieve. Further complexities arise in relation to the progress of partnership between parents and professionals due to the juxtaposition of definitions of the term partnership evident in the literature.

2.5 Defining Educational Partnership

Educational partnership is predominantly defined by academic commentators on the basis of the punctuation of equality which appears to be the fundamental basis of partnership. Page (2000, p. 62) highlights this as she states that the 'recognition between parents and professionals that they both share complementary goals, gives rise to a sense of partnership'.

Similarly, Rodd (2004, p. 163) utilises the concept of equality indirectly and suggests that partnership can be defined as 'a philosophy of shared child-rearing' which aims to coordinate the efforts of parents and professionals through non-hierarchical, collaborative relationships. Wolfendale (1996) argues that such an approach to parental partnership stems from an ideological perspective, where working relationships are based on equal but different contributions from parents and professionals.

O'Flaherty (1995) extends the basis of the definition of partnership contending that partnership is valuable as it leads to personal growth, self esteem and empowerment. Some commentators submit that partnership emerges on the basis of mutual respect between parents and teachers; a concept endorsed by Bridges (1994), who states that there must be mutual respect between the two partners. Similarly, the Irish National Teachers' Organisation (INTO, 1997) highlights the need for mutual respect to be the basis for partnership stemming from a perception that parenting and teaching are two very different but closely related responsibilities, where the lines are sometimes blurred. Pugh (1996) further endorses the concept of mutual respect and defines partnership as a sharing of power, resources, knowledge and decision-making between parents and professionals, which demands a change in attitudes based on a two-way process.

Conversely, it is worth considering if partnership defined in an unequal manner will ultimately result in a process of disempowerment. Whalley (2000) suggests that inequality in the concept of partnership stems from traditional parent education programmes which were based on a deficit model, targeting the families perceived to be most in need and cites the example of workers in the Headstart programme in the U.S.A. Rodd (2004) asserts that some

parent education programmes reflect a compensatory approach, where professionals, believing they are experts when it comes to children and families, attempt to change families. Pugh and De'Ath (1989) critique this kind of approach as one which disempowers parents. Fine (1997) suggests that parents are already disempowered when they enter the sphere of public education, typically with neither resources nor power. Hallgarten (2000) submits that this is magnified because they have unequal levels of skills and capital to utilise participatory structures. Other references to inequality in literature and research are more subtly presented. Katz (1988) considers parents to be a group of people who could be regarded as secondary clients, with their children being the professionals' primary clients. This concurs with the findings of three parental involvement projects carried out by Fine (1997, p. 473) who concluded that if power differences between parents on the one hand and teachers and administrators on the other are not addressed, then what emerges are not democratic partnerships but rather 'projects which seek to educate parents and change their behaviour'.

2.6 Education of Parents

According to the INTO (2005) many parents need advice and guidance as to how best they can support children's learning and look to schools to provide this. Indeed, this theme resonates across the literature, with many commentators intimating that if parents are to take an active part in the education of their children, they will need considerable support in the form of parent education schemes (Bridges, 1994). The literature differs in terms of who is responsible for the education of parents and presents a spectrum of stakeholders, ranging from the Department of Education and Skills to schools, to teachers, to parents themselves. The INTO (2005) suggests that the Department of Education should have a primary role in this regard by producing an information programme for parents. However, Gaire and Mahon

(2005) assert that the school should assume this role by providing parents with copies of school policy documents. Spodek and Saracho (1994) assert the fundamental role of teachers in assisting parents in both making decisions and anticipating the consequences of their decisions. The sentiment stemming from the provision of education and information to parents is not synonymous with equal partnership; however it is not shared by all writers.

According to Smith (1994), parent education programmes traditionally constituted a notion that parents were learners who needed expert guidance from primary education specialists about child development and appropriate child-rearing practices. This is ironic according to Bridges (1994), who points out that most children will have achieved their greatest intellectual achievement, the mastering of the basics of a natural language, under parental guidance before reaching school. Rodd (2004, p. 163) defines parent education as 'the professional responsibility to support and educate parents to enhance children's well-being and parental enjoyment and competence in the parenting role'. It appears that the dilemma between support and education for parents stems from the different knowledge bases that exist between these two main stakeholders.

2.6.1 Knowledge bases of Parents and Teachers

One of the prominent differences in the knowledge bases of parents and teachers is the language or jargon associated with the field of education. In this regard, Bridges (1994) notes that the specialist language in education may be a barrier to communicating with parents. However, Whalley (2000) argues that equal partnership can hardly be achieved if professionals determine that the language associated with education presents difficulties in

terms of the understanding capabilities of parents. Notwithstanding this argument, Whalley (2000) further asserts that if professionals choose to simplify their language parents might be equally patronised. It appears that sharing power with parents involves sharing any specialised language used.

The gap in the knowledge base has been compounded because parents have been excluded from the education process for too long (Spodek and Saracho, 1994). Bridges (1994, p. 66) notes that:

With hindsight it is easy to see that the schools and the teaching profession, caught up in their own enthusiasm for change, made the political and perhaps even moral mistake of failing to keep parents and the community engaged with the changes taking place, failing to communicate to them effectively, and failing to secure parents' informed support.

As a result of this the confidence of both teachers and parents needs to be built so that partnership is non-threatening to both sides (Bastiani, 1995).

2.6.2 Partnership and the Confidence of Parents

According to Pugh (1996), if parents' self-confidence was developed, it would provide a firmer base for a more equal relationship between them and professional workers. Similarly, Ball (1994, p.100) states that practitioners 'can help parents recognise that by responding to their children, they are providing appropriate learning opportunities so that parents develop confidence in their role as first educators'. It could be observed that the use of language denotes a partnership based on inequality with one party trying to boost the confidence of another.

2.6.3 Superficial Partnership

Crozier (2000) argues that parental participation is superficial at every level, which resonates with the sentiment of Fine (1997, p. 473), who states that partnership is essentially ‘moments when parents have a voice but are not getting a hearing’. Spodek and Saracho (1994) concur that programmes of parental participation are often opportunities to change parents and to institute changes as a way of placating parents. In this respect, Dahlberg *et al.* (1999) state that an effective parental programme should have an opportunity for parents to influence teachers and possibly change the school. The notion of partnership as a superficial activity is compounded by the existence of public relations campaigns in schools.

2.6.4 Public Relations Campaigns

Spodek and Saracho (1994) point out that there is an inbuilt contradiction in the concept of a public relations campaign. This contradiction stems from the fact that the school belongs to the parents and the community and therefore the school is charged with a duty to communicate to parents. However, if schools belong to parents, then perhaps the duty to communicate with parents should be extended to the inclusion of parents in management decisions rather than the filtering of information to parents in respect of decisions taken at management level. It appears that while good public relations are important in a school, superficial programmes will alienate parents; as stated by Spodek and Saracho (1994, p. 226): ‘Programmes of public relations, however, can be counterproductive and lead to frustration and even anger on the part of parents’. Despite this contention, it is arguably prudent practice not to blur the distinction between superficial public relations campaigns and the provision of important information to parents in order to foster partnership with the school.

2.6.5 Exchange of Information

The literature depicts a practical representation of the purported reality of providing information to parents. There is an observation made in respect of the mutual benefit that the information process offers as illuminated by Sammons (1997), who notes that parents are also responsive to receiving information which includes regular and comprehensible information about their child's progress at school. This sharing of information is also of assistance to teachers who aspire to source information in respect of coping mechanisms of parents regarding information that conflicts with their own ideas about their child and child development (Spodek and Saracho, 1994). Spear (1994, p. 226) highlights the importance of this process: 'Through sharing information with school and families, a realignment of lay/professional boundaries occurs, which results in an increased commitment of all parties to the primary aim of securing a child's well-being and progress'. Furthermore, Dahlberg *et al.* (1999, p. 77) purport that this model fosters a reflective and analytic relationship between parents and pedagogues and is effective in circumstances where it is a 'description of democratic practice rather than a means of social control or technological transfer'. By engaging in this model rather than a superficial programme, Wolfendale and Wooster (1996, p. 141) point out that many parents and schools have 'translated rhetoric and principles into a number of realities and practical action' which foster partnership. However, Gaire and Mahon (2005, p. 2) highlight an inherent flaw in the flow of information and utilise the example of parental choice of school to endorse their position:

Parents have little comparable information and less time available to do the kind of in-depth research that they feel is necessary. At present there is no official source of information on the comparative performance of schools available to the public. There is no published research on the quality of teaching and standards achieved either in individual schools or in groups or types of schools. In the absence of solid up-to-date information, parents are left with the tasks of assessing what is on offer without the necessary criteria or tools.

In this regard, the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector (2012) recommends that the Department of Education and Skills should adopt an information and communication strategy using a variety of traditional and electronic media; furthermore, the Department should rely increasingly on ICT to make information available about school choices and to receive information from parents (Coolahan *et al.*, 2012). The above expression of the role of parents as decision maker in the context of school choice is one of a myriad of roles undertaken by parents in the partnership process. In order to fully explore partnership in this respect it is important to define what is broadly meant by the term parent.

2.7 Defining Parenting

Smith (1994) indicates that parenting is a unique relationship between two individuals comprising of multiple roles rather than an aggregate of skills. The concept of the multiplicity of roles within the overarching term 'parenting' transcends the many purported definitions generated within the literature. This is espoused by Billman (1996) who concludes that parents have an individual identity as well as their identity as a parent and furthermore by Nutbrown (2010), who asserts that parents also play the role of being carer to their young children.

In respect of parents exercising their educational role, Billman (1996, p. 185) states that parents serve as educators of their children as they 'transmit the values and knowledge of the society, culture, and community of which they are a part'. In addition, parents have the responsibility to select and monitor educational settings and experiences for their children. Smith (1994) asserts that parents generally do not recognise the extent of provision of

educational experiences for their children precisely because it comes under the overarching term of parenting which constitutes many supersets of roles and obligations. Gestwicki (1992) points out that teachers of young children must understand the many different roles parents play to understand both the complexities of their lives and the implications those multiple roles have for any relationship with their child's teachers. Billman (1996, p. 185) extends this principle of understanding to include an acceptance of the deep emotional impact of parenting and notes that educators 'must understand that parents experience many emotions, including fatigue, frustration, isolation, guilt, and insecurity in their parenting abilities, in addition to the rewards of joy, love and pride in their children'. The multitude of differing experiences highlights that parents are not identical and it is difficult to class them as forming one group with the label of parent. This is magnified by the issue of gender.

2.7.1 Gender

Crozier (2000) asserts that with respect to educational involvement, a parent usually means, in practice, a mother, as mothers are the most educationally active parents. Similarly, Vincent (2006) maintains that research on all aspects of parental involvement with school shows that mothers take the responsibility for liaising with the school; this observation is endorsed by the INTO (2005, p. 74) who state that 'mothers are more likely than fathers to become involved in their children's education'. Vincent (2006) illustrates that while parental involvement with school is not a gender-neutral one, neither is it a class-neutral concept; again reinforcing the concept that parents are not a homogenous group.

2.7.2 Parental Differences

Smith (1994) points out that parents are a heterogeneous group reflecting on the differing aspirations that they generate for their children; a concept endorsed by Robson and Smedley (1996) who concur that parents are not a homogenous group and have different needs and wishes for their children. Whalley (2000) determines that parents have different starting points in terms of getting involved in their children's early years' settings. Crozier (2000, p. 114) summarises this sentiment outlining that parents 'comprise people from diverse groups living and working in diverse situations and family structures, and their diversity influences their relationship to the school'. Vincent (2006) argues that the fundamental item exposing these diversities is resources, purporting that the differences in social and cultural resources available to parents are extremely influential in determining parental relationship with the school, and the frequency, quality and nature of their interventions. This serves to explain the major variations which Powell (1989) highlights as existing in patterns of parent participation. Despite these variations, there is consensus in the literature that all parents have the right to be involved and stemming from this right are responsibilities for parents.

2.8 Rights and Responsibilities of Parents

Spodek and Saracho (1994, p. 527) argue that parents have 'both the right and responsibility to share in decisions about their children's care and education'. They further note that parents have been traditionally kept out of decision-making roles in schools. Spear (1994) contends that opportunities exist in the area of decision making for lay professional tensions to emerge, since teachers have long felt this policy-making function to be a professional preserve. The consensus in the literature culminates in the proposition that in reality schools exist to serve children, and through them their families and ultimately, society. This

arrangement forms the basis of both parental rights and responsibilities in this regard. Smith (1994) suggests that parents need to acknowledge the importance of their role as a child's first educator and not automatically abdicate their responsibility once a child enters a pre-school or school setting. Partington and Wragg (1989) avow that once their children are at school, parents sometimes assert that the family is in the grip of the education system which effectively negates their influence. There is a delicate balance between the roles and rights of each partner in the educational partnership. In this regard, Gaire and Mahon (2005, p. 73) state that:

As a child enters the busy school environment, it is essential to remember the key role parents continue to play in their child's adjustment during this change and in relation to their development in general.

Spodek and Saracho (1994) highlight that one of the larger issues confronting education today is the extent to which parents' wishes and demands should also constitute a legitimate set of restraints on teachers' actions.

2.8.1 Rights and Responsibilities of Teachers

Some commentators assert that teachers as professionals should dictate the parameters of parental involvement. Spear (1994) points out that there is an onus on teachers as the professionals in the relationship to justify themselves, according to recognised principles of educational practice, if parents' suggestions are unrealistic, impracticable or at their worst, involve serious compromise of professional knowledge. Spodek and Saracho (1994) also place responsibility on teachers to justify practice. The responsibility of teachers asserting the parameters of the educational partnership role is complicated by attitudinal and professional differences among teachers.

Many commentators argue that there are attitudinal and professional differences among teachers who feel threatened by partnership and its encroachment on their professional domain (INTO, 1997). Pugh (1996, p. 26) argues that: 'Although parents are often described as the first educators, and the rhetoric of partnership is constantly quoted, the research that points to the gains to children if parents are involved in their learning still presents a challenge to many practitioners'. Pugh (1996) also observes a trend whereby professionals are more inclined to provide services that they perceive parents and children need which supersedes a direct contact by professionals to identify the needs of parents and children.

In this regard, Whalley (2000, p. 58) points out that although at state level there is increased emphasis on the value of parental contributions, parents are viewed by many practitioners as 'helpers' rather than as 'equal partners'; a concept previously exposed by Partington and Wragg (1989). Spear (1994, p. 67) extends this concept of token participation and advocates that the most successful parents are 'those who have developed a pattern of fundraising, social and educational activities, and see themselves as being an active support of what the school is trying to achieve'. Rodd (2004) states that although this participation, which is advantageous to the school, has been increasingly encouraged over the past thirty years, there is research evidence which provides a compelling argument for strengthening parental involvement, from the typically token level to a level of genuine partnership, in any service related to the care and education of young children. In this regard, the INTO (2005, p. 71) advance the need to 'seek new ways to give practical expression to the ideal of partnership, particularly in the area of policy development impacting on home and school'. A further recommendation emerging from literature in this regard is to focus on partnership rather than parental involvement during initial teacher education.

2.8.1.1 Initial Teacher Education

The INTO (1997) argued that when the majority of the teaching force received their initial teacher education the role of parents in education was not as recognised as it is today. Edwards and Redfern (1998, p. 162) point out that ‘as a result of their training and past expectations of society, some teachers may still believe that their task is to transmit knowledge to the children in their care’. It appears that there needs to be a willingness to reconsider the traditional role of the teacher (Edwards and Redfern, 1998). In this regard, Pugh (1996) concurs that increased emphasis on consultation will require new skills and a change of attitude on the part of many managers and practitioners.

2.8.1.2 Colleges of Education

The INTO (2005) raised concerns that there was no national policy in respect of how student teachers are to be instructed on the role of parents in relation to education. However, the Teaching Council has significant powers with regard to teacher education as prescribed in the Teaching Council Act, 2001. The Teaching Council advises that programmes within colleges of education should prepare student teachers for entry to their professional role in the context of understanding the role of parents (The Teaching Council, 2011).

2.8.1.3 St. Patrick’s College

In St. Patrick’s College of Education in Dublin, the issue of parental involvement does not comprise a specific course but receives attention in a number of courses on the Bachelor of Education programme. In the first year of the programme half a lecture is devoted to emphasising the role of parents in promoting early literacy as part of the reading course.

Also in the first year students focus on how children acquire first language from their parents as part of their curriculum Irish programme. In the second year, one and a half hours are allocated to the study of shared reading with parents, its research, method and evaluation as part of the reading course. Also in the second year of the programme, the issue of parental involvement is addressed as part of the History of Irish Education course. Parental involvement in education is also addressed in the third year Sociology of Education course, where a total of four lecture periods are devoted to this topic. These lectures include the growing evidence that a child's progress is dependent on parental support, the history of parental involvement in primary school life in Ireland, the constitutional position of Irish parents, major initiatives to involve parents in the management and administration of schools and the Home-School-Community Liaison Scheme. In addition to these lectures, speakers are invited to address the students including representatives of the National Parents Council Primary and practising Home-School-Community coordinators. In accordance with a specific recommendation by the Teaching Council Review Panel, the Department of Education and Skills has confirmed that the duration of initial teacher education degree programmes for primary school teachers is to be extended to four years and students initiating the programme in September, 2012 will undertake a four year programme in both St. Patrick's College and Mary Immaculate College (www.teachingcouncil.ie, accessed 07/03/2012).

2.8.1.4 Mary Immaculate College

The issue of parental involvement is addressed at a number of different levels in Mary Immaculate College of Education in Limerick. It is addressed in the first year B.Ed course as part of the General Methodology programme. In the second year of the course it is allocated time on the Pedagogy of Early Childhood programme. In the third year of the course it is

addressed as part of the Educational Psychology and Development Psychology. Also in third year all students are given the opportunity to spend two weeks in an educational setting other than a primary school and prior to this they explore the role and involvement of parents in this setting in depth. Finally, in third year students explore the issue of parental involvement in the education process through the medium of workshops and lectures given by invited guests.

Whalley (2000) believes that improvements in respect of partnering parents must come about as part of professional development through recognising that the parents' specialised knowledge of their own child can stimulate our thinking. The INTO (1997, p. iii) conveys that parent involvement should ultimately not be a threat to teachers' professionalism but should provide an 'opportunity for teachers to demonstrate to parents the expertise, dedication and skill that has often been unseen and therefore unrecognised outside the four walls of the Irish primary classroom'. Bastiani (1995, p. 101) states that 'there is a compelling and inescapable need' for professionals to review both their thinking and their practice in this area. Teachers are not the sole group providing obstacles to partnership; parents too provide obstacles according to the literature.

2.9 Parental Obstacles to Partnership

Smith (1994) points out that not all parents are able or willing to be closely involved with their child's education and acknowledges many reasons for this including negative experiences at school and work commitments. Moreover, Fabian (2002) states that it cannot be assumed that all parents want a close partnership with school, as their amount of involvement will vary according to their circumstances and wishes. Further contemporary

obstacles to parental involvement which can potentially exist within the system of schooling are market-based obstacles to partnership.

2.9.1 Market-based Obstacles to Partnership

Drury *et al.* (2000, p. 99) highlight that 'parents are seen as consumers of a service and their role is in danger of being reduced to fulfilling the terms of the home/school contract issued by the school'. Similarly, Bridges (1994, p. 73) argues that parents are not partners in the educational enterprise but customers or clients of a service which is provided by someone else, thereby marking 'the triumph of the individualistic ethos of collaboration in the interests of general welfare'. In the United Kingdom, this stems from the pursuit by parents of particular schools created by the choice of schools allowed by government in circumstances where parental choice of school directly affects the school's budget. Bridges (1994) suggests that this choice embodies parents as consumers and effectively dictates that their responsibilities are primarily to exercise informed choices regarding schools which will educate their children for them. These choices reflect reality, according to Lawton (1995) who claims that in any system there will be some schools more attractive than others. Miliband (1991, p. 13) points out that under this system 'it becomes more important for parents to battle to get their child into the best school than for them to make possible and work for the improvement in the quality of their local school'.

McLaughlin (1994) also purports that the concept of parents and local schools as partners in the education process is undermined by market-dominated relationships. The embodiment of parents as consumers effectively means that a dilemma exists in which parents are

‘manipulators of the school system and in competition with other parents for the sake of the positional advantage of their own children’ (Bridges, 1994, p. 77). Hallgarten (2000) points out that parents naturally prioritise their own child’s needs over a school’s needs. Alternatively parents, who do not prioritise their child’s needs, arguably place a heavy responsibility on the school to succeed without assistance (Dowling, 1992). A challenge facing educational partnership with parents is to construct partnership in such a way that parents’ natural concern for their own children is directed to efforts which also benefit the provision of education in school in a genuinely educational enterprise. Spear (1994, p. 231) considers this challenge as one which aims to achieve a balance between ‘parental expectations and professional expertise’. Gaire and Mahon (2005, p. 1) present the current situation in Ireland whereby ‘one of the major preoccupations of new parents is where to send their child to school’. The extent of this challenge surrounding choice of school will be dependent on parental expectation of schools.

2.10 Expectations of Parents

Fabian (2002) notes that there has been a significant shift in parental attitude in terms of the high expectations of parents in respect of partnership with schools. Similarly, Bastiani (1995, p. 101) notes that there is ‘considerable cumulative evidence of an uneven but definite spread of changing parental attitudes to and expectations of their children’s schools’. Fabian (2002) suggests that this change stems from parents seeing their entitlements being granted through legislation and as a result parents are ‘finding a stronger political voice and are becoming increasingly articulate about the needs of children’ (Smith, 1994, p. 76). Glendenning (2008, p. 429) also traces the changes in respect of parental assertiveness with regard to their rights:

‘Parents in Ireland have been dilatory in exercising the full range of entitlements afforded them in the Constitution in regard to the provision of a variety of school types’.

However, Bridges (1994, p. 73) considers the growth of parents in the partnership process to embody a negative situation and purports that it is being created at government level because parents are ‘enjoined not to joint action; not to participate, but to discriminate and to complain if they are not getting what they want’. Indeed, the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector (2012) observes that ‘contemporary parents are more confident and vocal in seeking their educational rights than former generations’ (Coolahan *et al.*, 2012, p. 53). Walshe (1999, p. 115) observes that some union leaders ‘believe that the deliberate cultivation of parent power is another example of efforts to curtail the power of the unions by building up another power base in the education arena’. There is an inbuilt assumption prevalent in the literature that parental lobbying aims to determine the course of education. However, if parents are the primary educators they do not need to assert that right through pressure groups as arguably it should flow naturally from the primacy of their position. The emergent question from a review of the literature is why parents need to actively assert their right to be primary educators notwithstanding the constitutional weight attaching to the term.

2.11 Conclusion

There is emergent contradiction in the literature between the position of the primacy of the concept of partnership and the purported deficiency of the translation of the principle into an equally strong programme of parental involvement and partnership. It is noted, in the interest

of clarity, that the overarching term of parent used in this research constitutes many supersets of roles and obligations. Educational partnership with parents is collectively defined within the literature as a concept that promotes the equality of both parents and educators. However, the literature further purports that while this is, theoretically, the position, it appears that parents have emerged as less dominant partners stemming primarily from their own minimal expectation levels of educational partnership in terms of unawareness, tradition and perceptions of inferiority. These expectation levels of partnership have been compounded by the historical roots of educational partnership in Ireland; the education levels reached by parents in the past, the confidence level of parents, initial teacher training, public relations campaigns established by schools and market-based obstacles to partnership. However, the literature highlights perceptions of a changing educational partnership arrangement and refers also to a campaign that is underway by parents, who are seeking to assert their right to be partners rather than participants in the education of their children. This phenomenon poses the question as to why parents need to strive to protect and promote their position as educational partners given their constitutional right to be primary educators of their children. The answer appears to lie in the assertion of the protection of the common good in education by the State; a concept which resonates within the literature in this regard, namely that a challenge facing educational partnership with parents is to construct partnership in such a way that parent's natural concern for their own children is directed to efforts which also benefit the provision of education in schools in a genuinely educational enterprise, aiming towards the realisation of the collective good for all children in the system.

CHAPTER 3: RESEARCH METHODOLOGY

3.0 Introduction

The previous chapter sought to define educational partnership with parents from a review of relevant literature and the response to educational partnership in the primary school sector in Ireland. The next phase of the study involves designing the most appropriate method of data collection to facilitate the investigation of the hypothesis of the study and sub-issues arising from the hypothesis in an objective, reliable and valid way. This chapter provides an in-depth overview of the research strategy including the research design process and its subsequent implementation. The data that are required for this research relate directly to its aim and nature, which are exploratory. The reliability of this study is highlighted by the body of experts, constituted within the research sample, who distil particular knowledge and insight, stemming from their influential positions in respect of the research question within the legal and educational fields.

This chapter outlines the research strategy aligned with this study and begins by returning to the underpinning theoretical framework of qualitative research and examines how the adoption of this perspective formed the basis for the subsequent choices regarding research design. It explores the theoretical philosophies that underpin the research paradigm informing this exploratory study and explains the methodological model designed to conduct the study, detailing the processes and procedures involved in its implementation.

Initially, the hypothesis and sub-issues arising from the hypothesis, are outlined. Additionally, the design of the research process is accounted for in terms of its correlation with the interrogative nature of the inquiry. The chosen method is defined and its various structures highlighted in order to rationalise its use in this research study. The factors that make it advantageous to the study are discussed along with its constraints. The sampling procedures adopted are legitimised. The research schedule, including the wording and ordering of it, are outlined. Details of how the research was piloted, conducted and recorded are included along with how provisions were made to conduct the research in an ethical manner. The procedure undertaken to analyse the data is detailed. Finally, the limitations of educational measures in the context of this research are highlighted.

3.1 Hypothesis of the Study

The hypothesis of this study is that past and current legal and policy provision affecting parents as educational partners in primary education in Ireland does not recognise the parent as the primary educator of their child as stated by the Constitution of Ireland, 1937.

The sub-issues arising from the hypothesis aim:

1. To analyse educational partnership with parents in the Republic of Ireland and the response to this partnership in the primary sector in Ireland by exploring the past and present legal and policy position of parents.
2. To examine the position in both policy and practice of parents as educational partners in primary education in Ireland.
3. To research the understanding of educational partnership with parents of present major stakeholders in primary education in Ireland.

The investigation of the hypothesis and sub-issues are undertaken in order to further the debate on the position of parents as educational partners in Irish education and to provide a deeper understanding of the issues, as well as clarifying and informing the debate. The investigation of the hypothesis of the study utilises an interdisciplinary focus, drawing on literature and theoretical perspectives from law and education to frame an in-depth analysis of qualitative data.

The examination of the hypothesis is conducted by establishing first, the legal position of parents, second, the policy and practice position regarding parents and third, the opinions of major stakeholders, thereby creating a triangulation of the position of parents as educational partners in Ireland. Marshall and Rossman (1995) caution that the hypothesis, and sub-issues arising from it, can place boundaries and parameters on the study, notwithstanding that they give depth and focus to the study. However, the broad wording of the third sub issue, within this study, seeks to negate constraints being placed on the research and aims to explore the hypothesis, while also generating further questions. The research strategy employed within this study was to compare the emergent themes from the exploration of the hypothesis and sub issues with the evident trends in the literature and thereby encapsulate a conclusion resonating with the aim of the study.

3.2 Aim of the Study

The aim of this study is to gain insight into the legal and policy position of parents as educational partners in the primary sector using the constitutional lens of Article 42.1 to frame the research. The literature review presents a wide range of primary sources and

secondary literature in law and educational policy which provides the context for the subsequent analysis and findings and frames the issues which emerge from the interviews. The study seeks responses from stakeholders, who are members of representative bodies, which influence the legal and policy position of parents as educational partners in the primary sector. In this regard, both the legal and educational interviewees are experts in their particular areas and many of the interviewees have acquired a plethora of experience within particular representative bodies. The participation of the most experienced personnel in each of the legal and educational bodies, which influence the legal and policy perspectives governing Irish education, was requested. The interviewees consented to take part in the study in their individual capacity, as members of representative bodies. The collective agreement of the sample to partake in the study greatly enhances the authenticity and authoritative nature of the research and the contribution that its findings make to the understanding of the constitutional, legal and policy position of parents in primary education in Ireland. A research process that reflected the expertise, experience and professionalism of the interviewees was formulated in order to address the aim of the study.

3.3 Research Design Process

In order to design the research process in a systematic and valid manner, the different research methodologies and methods were studied as advocated by Wolcott (2009). While designing the research process, the researcher was at all times aware that the distinction between qualitative and quantitative research is more arbitrary than a reflection of major, inherent differences (Roulston, 2010). Ultimately, the exploratory nature of this study negated the potential use of a quantitative study, in circumstances where the advantageous nature of the sample in terms of their experience and expertise would achieve more proficient

exposure within a qualitative framework. While this broad philosophical viewpoint was acknowledged, this study did not seek to make assumptions pertaining to research methodology and therefore specific differences between the two types of methodology needed consideration in order to identify the one most appropriate to this study.

3.3.1 Characteristics of Quantitative and Qualitative Research

Quantitative research is based on collecting facts and studying the relationship between different sets of facts. Notwithstanding the value of this ideal, the appropriateness of quantitative research in terms of its aims ultimately did not correspond with the exploratory nature of the study. The fact that the research sample in this study is comprised of legal and educational experts, who are engaged in their respective representative bodies, does not resonate with the objectives of quantitative research in terms of its aims to seek to study a sample in order to predict the actions of the general population (Hitchcock and Hughes, 1995); to attempt to produce quantifiable results (Bell, 2005) or to establish facts that are representative (Bogdan and Bilken, 1998).

Alternatively, qualitative research endorses the sentiment of the aims of this study in terms of its holistic, purposeful, inductive and intuitive nature. Qualitative research seeks to understand an individual's perception through insight rather than statistics and is concerned with details, attitudes and perspective (Bogdan and Bilken, 1998), which corresponds with the sentiment of the sub-issues emerging from the hypothesis of the study. Research pertaining to individuals, context, culture and biography resonate with qualitative studies (Hitchcock and Hughes, 1995); the fact that this study is concerned with the policy and

practice position of parents necessitated the need to utilise a research methodology that encompasses ways to study individuals and culture. Moreover, the qualitative research methodology is concerned with process rather than product and the researcher in this study was concerned with legal, policy and practice cultures that have developed and will develop over time. Babbie (2005, p. 387) defines qualitative research as ‘the non-numerical examination and interpretation of observations, for the purpose of discovering underlying meanings and patterns of relationships’. In accordance with the endorsement of Babbie (2005), the use of the qualitative research methodology in this study ensured that the researcher could maximise the opportunity to utilise the expertise of the sample by investigating underlying meanings and perceptions underpinning their responses. The endeavour to access the domain of perceptions and meanings provided the rationale for this dissertation adopting a qualitative methodological technique.

3.3.2 Selection of Methodology

Silverman’s (2000) contention that no methodology is privileged over any other embodies a theme in the literature espousing that there is no right or better methodological approach; they are equally legitimate but suited to different types of inquiry. The advice of Babbie (2005) was adhered to in this study, that when considering methodology for a more exploratory study, qualitative research seems appropriate. Informed by the issues raised in the literature, the main aim of the research in this study is exploratory and seeks to gain insight into the constitutional, legal and policy position of parents in educational partnership in the primary sector in Ireland. Qualitative rather than quantitative methods provide the necessary data to investigate this aim.

The focus of this study is on understanding the viewpoint of major expert stakeholders in this area rather than measuring it as summarised by Cole and Knowles (2001, p. 224) to bring 'understanding to complex social phenomena that cannot be reduced to precise, statistical relationships'. Ultimately, the qualitative research methodology was considered to be appropriate in this study because it allowed for the fact that each interviewee would essentially be providing unique and authentic responses stemming from respective work within particular representative bodies; thereby nullifying the potential composition of a questionnaire to reflect this uniqueness. The next phase of the research design process was to formulate a qualitative method that would support the investigation of the sub-issues emergent from the hypothesis of the study.

3.3.3 Selection of Qualitative Method

Qualitative data occur in a variety of forms and different perspectives are inherent in the qualitative approach (Coffey and Atkinson, 1996). The decision, surrounding which method to use in this research, involved returning to the sub-issues arising from the hypothesis. The sub-issues seek to determine the perceptions of particular key people in positions of authority with regard to the position of parents as educational partners in primary education. However, the researcher is also seeking to determine how the sample of experts perceives the position of partnership with parents in light of past and current policy. There are multiple realities rather than a single reality in both of these cases. The task of the researcher is to get an understanding of these multiple realities from the perspective of the most experienced personnel within key representative bodies relating to the legal and policy position of parents. Roulston (2010) considers understanding to be at the core of the interview process. Moreover, the data are dependent on how individual opinions are perceived by the researcher.

On this issue of perception Babbie (2005) argues that the effectiveness of the interview lies in determining the opinions, attitudes, preferences and perceptions of persons of interest to the researcher. Accordingly, the most suitable and logical approach to collect data for this research is the interview.

3.4 Definition of the Interview

The interview is used in this research as a conversational tool to extract data that are most appropriate to the qualitative nature of this research. The aim of the interview process in terms of seeking an understanding of the submissions of the interviewees is manifestly achieved through dialogue and endorses the various definitions of the interview within the literature pertaining to research methodologies. The interview is defined as a process of capturing data through conversational encounters (Hitchcock and Hughes, 1995); as a two-person conversation initiated by the researcher for the specific purpose of getting information (Babbie, 2005) and as a technique embodying both an art and a science (Barbour, 2008). In this regard, Barbour (2008, p. 114) states that: 'It is important that the researcher attends to both of these aspects of the research encounter if the full potential of interviewing as a means of eliciting relevant, valuable and reliable and analytically rich data is to be realised'. In terms of ensuring the realisation of rich data in this study, the researcher considered the structural options in respect of the interview in order to balance the artistic and scientific techniques espoused by Barbour (2008).

3.5 The Structure of Interviews

This study took cognisance of the fact that interviews can be conducted in different ways for research purposes in circumstances where many variations on the interview method are possible (Blaxter, Hughes and Tight, 1996). Moreover, the degree to which interviews vary in structure along a continuum of fully structured, semi-structured and unstructured interviews required consideration as advised by Barbour (2008) and May (2001). The decision in this study regarding the level of structure to ascribe to the interview process was based on the most suitable interview style required to accurately address the sub issue arising from the hypothesis.

The informality attaching to the unstructured interview was considered unsuitable in this study in circumstances where it would display a lack of courtesy to voluntary interviewees if they were asked to provide a monologue on the subject with no guidance. Moreover, the lack of structure would create difficulties at the data analysis stage. Furthermore, the unstructured technique requires a great deal of training and expertise (Roulston, 2010). Highly structured interviews were not suitable given the qualitative, exploratory nature of the study. In addition, the level of expertise attaching to personnel from legal and educational representative bodies would be overridden by burdening the participants with questions rather than focusing on exploring and understanding their responses. Bell (2005) states that most interviews carried out in the main data collection stage of research will come somewhere between the completely structured and the completely unstructured point on the continuum. This middle ground is occupied by the semi-structured format which was selected for use in this research in circumstances where it sought to balance the need for structure to protect the

data analysis process with the need for exploration of responses to protect the sanctity and the probing nature of the sub-issues arising from the hypothesis.

3.5.1 Semi-Structured Interviews

Roulston (2010, p. 15) describes the semi-structured interview as:

Interviews where interviewers refer to a prepared interview guide that includes a number of questions; these questions are usually open-ended and after posing each question to the research participant, the interviewer follows up with probes seeking further detail and description about what has been said.

The process, whereby a semi-structured interview guide fosters a resultant conversation where responses can be probed, clarified and expanded upon, embodies the approach taken to collect data in this study, thereby resonating with the investigative nature of the research. This method further sought to aid the data analysis stage of the research as individual responses could be compared on the core questions, while other issues spontaneously raised by the interviewee could also be taken account of as endorsed by Babbie (2005). This method focused on the collection of data through direct verbal interaction between individuals, which Roulston (2010) highlights as being the source of both the main advantages and disadvantages of the interview as a research technique.

3.6 Advantages of Interviews

Oppenheim (1992) states that there are no advantages and disadvantages to interviews, but rather interviews are preferable for some problems, or under some conditions. This section seeks to document why interviews are advantageous to this particular research. The fact, noted by Barbour (2008), that the two-way interview process is one of the most popular

methods of obtaining information was advantageous in this study in circumstances where the legal and educational interviewees all had prior experience in participating in research studies. Furthermore, the adaptability of the interview was the principal advantage in this study, as each of the interviewees presented with a differing position in terms of respective experience within a particular representative body, thereby presenting for interview with contrasting work experience histories, and different interpretations of the sub-issues being addressed in this study. In addition, the semi-structured interview and the process attaching to it, whereby interviewees could elaborate on or address issues not delineated by the interview schedule, ensured that the research problem did not remain static. This was particularly important in this study as both the education and legal sectors embody rapidly changing systems in terms of fluidity of ideas and volatility of concepts. Moreover, the semi-structured interview in this study sought to improve the conceptualisation of the research problem utilising the advice of Oppenheim (1992, p. 67) that a useful set of interviews can 'greatly broaden and deepen the original plan of the research, throw up new dimensions to be studied, suggest many new ideas and hypotheses, highlight important differences between group respondents and so on'. However, the pertinent nature of the topic under investigation in this study required the interviewer to remain in control and Silverman (2000) submits that the semi-structured interview enables the interviewer to exercise control over the content of the interview.

The semi-structured interview further afforded the interviewer in this study an opportunity to build a rapport with the participants and foster greater depth of responses. Roulston (2010) also acknowledges that the interview situation usually permits much greater depth than other methods of collecting research data. In this regard, Bell (2005) suggests that an interview that is carried out skilfully can follow up ideas, probe responses and investigate feelings and

motives, which the questionnaire can never do. Dinkins (2005, p. 173) proposes a parallel theory, in terms of the structure of the interview being 'a back and forth process of continual re-examination'. The interviewing process in this study sought the communication of personal meanings by the participant through rapport and re-examination rather than being elicited within a standardised format.

For these reasons, the face-to-face interview was judged as being the most appropriate research method to utilise in this study as it provides an opportunity to probe answers, to develop rapport, to detract from a static research problem and thus elicit more information and bring greater clarity to the authentic and pertinent topic under investigation. In deciding to use the interview as the method to gather data to address the research questions, this study sought to negate the constraints associated with it.

3.7 Constraints of Interviews

The interview has definite limitations as a research tool in terms of consumption of time according to Roulston (2010). Furthermore, the subjectivity and the face-to-face situation in which interviews are conducted means that there are many potential sources of bias and distortion (Shaughnessy *et al.*, 2003).

3.7.1 Bias

The interviewer was aware in this study that many factors can result in bias in circumstances where the conversational nature of the interview enables both the researcher and the

interviewee to adversely affect the data that is collected. A factor that often biases the results of interview studies is the effect of the interviewee on the process as a result of the possibility that respondents will provide the version of the information that they think is appropriate. In this regard, Faulkner *et al.* (1991, p. 44) warn that 'what your informant tells you will depend upon their perceptions of you and of your inquiry, upon how they interpret your questions, and upon how they wish to present themselves'. However, the adverse effect of the perceptions of the respondent in this study was reduced due to the expertise attaching to the sample and their experience of the interview process throughout their careers. Similarly, the researcher can adversely affect the research findings; however, in this regard, Moch and Gates (2000, p. 99) argue that 'it is time the researcher experience be given more prominence'. In circumstances where the researcher was conscious of the issue, notwithstanding the argument made by Moch and Gates (2000), every effort was made to remain aware of the effect of the researcher during this research. The sampling procedure, adopted in this research design process, also aimed to reduce bias.

3.8 Sampling Procedure Adopted

The selection of the sample of interviewees was one of the most important considerations in this study as decisions around this issue are crucial to the research because they determine what data is gathered. The researcher took cognisance of the advice of Silverman (2000) in this regard that the validity and reliability of research findings are influenced by procedures used at this juncture in a study.

The sample of participants in this study consists of fourteen key people involved in legal and policy positions relating to educational partnership with parents in Ireland. Some of the participants hold official positions, which influence the legal and policy position of parents as partners in education in Ireland, while more of the participants hold key roles in particular representative bodies, which influence the legal and policy position of parents. The decision regarding the number of interviewees was influenced by the advice of Oppenheim (1992) that quality rather than quantity should be the essential determinant of numbers. Furthermore, as indicated by Roulston (2010), there is no consensus in the literature about the size of a sample, although it is generally accepted that qualitative studies focus on a relatively small sample size in comparison to studies using a quantitative approach. There was also the danger that more than fourteen interviews would cause the data to become quite saturated as themes may begin to repeat themselves and hinder the emergence of clear patterns. Fourteen interviewees were also required in order to achieve age and gender balance. The sample size is further appropriate to this study, because it is sufficient to incorporate the key stakeholders who relate to the legal and policy position of parents. More than fourteen interviews would have widened the study to include key figures in the broader area of education.

The educational sample includes a representative from:

1. The Department of Education and Skills Inspectorate
2. The Ombudsman for Children's Office
3. The National Parents Council Primary
4. The Teaching Council of Ireland
5. The Irish National Teachers' Organisation

6. The Catholic Primary School Management Association
7. Gaelscoileanna Teoranta
8. Educate Together
9. Irish Primary Principals Network
10. The National Council for Curriculum and Assessment
11. A college of education

The legal sample includes:

12. A head of a university legal department
13. A member of the Bar Council of Ireland
14. A senior lecturer in constitutional law

The sample consists of three legal interviewees and eleven education interviewees. The basis of this breakdown is natural rather than arbitrary and reflects the broad number of bodies in the education sphere compared with the relatively narrow legal base. The number of legal interviewees in the sample is offset by the range of experience held by each interviewee. The legal interviewees all present with a different angle ranging from academic to practitioner to a combination of both academic and practical experience. Their commonality stems from their legal expertise and the lengthy timescale that they have been working in their respective positions. For the purpose of maintaining the confidentiality of the interviewees the exact positions and level of experience of the participants cannot be disclosed. However, in order to balance the need for confidentiality against the need to justify the inclusion of the interviewees in the research, a brief description of each legal interviewee is provided. A corresponding description of the education interviewees is not included, as the name of the

education body represented by the education interviewees is self-explanatory. Each educational interviewee is referred to in the presentation of findings by a random number which only the researcher can match to their identity and no significance attaches to the number beside each representative body in the above list of interviewees in this section. In contrast, each of the legal interviewees is identified by an alphabetic letter.

One of the legal interviewees is a senior constitutional law lecturer as well as the head of a legal department in an Irish university; Interviewee A. The second interviewee is a practising Junior Counsel at the Irish Bar and has been involved in many high profile constitutional law cases pertaining to education; Interviewee B. The final legal interviewee is both a practising Junior Counsel at the Irish Bar and a senior constitutional law lecturer; Interviewee C. At the stage of securing the interviewees it proved difficult to source both legal academics and practitioners with the result that the legal interviewees are all male. However, this issue is countered by the fact that gender balance was achieved amongst the education interviewees which consist of five males and six females. The projected number of study participants and the breadth of their experience along with the number of issues to be explored dictated that an interview schedule be constructed.

3.9 Design of the Interview Schedule

The process of developing an interview schedule focused on the purpose of the study and furthermore reflected the conceptual framework of the investigation as well as embodying awareness, in terms of question formation, that the interviewees all possessed an expertise in their particular field of work. The focus of this study is on the three sub-issues arising from

the hypothesis; therefore the aim of designing the interview schedule was to investigate the sub-issues arising from the hypothesis in a focused and coherent manner and to structure the schedule to aid the analysis of the accumulated data. This correlates with the advice of Barbour (2008), who states that it is essential to formulate a schedule which facilitates consistent data collection and coherent analysis.

There are individual interview schedules for both the education and legal interviewees. This ensured that the questions asked specifically related to the expertise of the particular interviewee. Issues, which were raised in the introduction and literature review, formed the basis of both of the interview schedules. The interview schedules are included in appendices one and two, on pages 294 and 297 respectively. The interview schedule, pertaining to the legal interviewees, has two categories, which correlate with the first two sub-issues arising from the hypothesis, while the education interview schedule has three categories relating to the three sub-issues arising from the hypothesis. The legal schedule does not contain a third category relating to the third sub issue arising from the hypothesis, as that sub issue solely addresses the understanding of educational partnership with parents by present major stakeholders in primary education in Ireland. The categories of questions provide the framework for the investigation of the study. The first two categories of the legal and education interview schedules both address the first and second sub-issues arising from the hypothesis. The parallel line of questioning between the two interview schedules aims to provide clarity at the data analysis stage of the research in terms of comparing the educational and legal data in chapter six.

The first category of questions for the education interviewees relates to the first sub issue arising from the hypothesis, that of exploring the past and present legal and policy position of parents. Questions were included in this section as they relate to emergent themes in chapter one of the literature review, including the role and rights of parents. This section used open-ended questions to focus more specifically on the issue of the legal position of parents, as perceived by the interviewees. The first four questions were included in this section in order to focus on the role of parents. Two questions were included in this section which directly focused on the Constitution and utilised its language in order to address the current legal position of parents as educational partners. The remaining questions in the section were incorporated in order to focus on the rights of parents. The same question was framed from different angles with a view to lengthening any potential discussion and seeking clarification on what the interviewee understood the rights of parents to constitute. Barbour (2008, p. 115) embodies the reasoning behind this decision stating that: 'In qualitative research we are not seeking to measure attitudes or specify the exact nature of relationships between variables, but are, instead, concerned with eliciting in-depth accounts from people with room for them to select which aspects they wish to emphasise'. By framing the same question in different ways in this study the researcher could focus the interview on the elements that the study seeks to emphasise.

The second category of questions for both sets of interviewees reflects chapter one of the literature review and relates to the second sub issue arising from the hypothesis, that of examining the policy and practice position of parents as educational partners in primary education in Ireland. This sub issue was approached indirectly by focusing on the role of the main stakeholders in the education process in order to determine who held a dominant or limited role in education policy and practice today. The third category of questions for the

education interviewees relates to the third sub issue arising from the hypothesis, which focuses on researching the understanding of educational partnership with parents from present major stakeholders in primary education in Ireland. This category relates to chapter two of the literature review. In line with the advice in the literature, both of the interview schedules conclude with an opportunity for the interviewee to raise any points not already covered or to elaborate on any points that they had made. In each interview the interviewee chose to further the conversation by returning to focal points that had arisen over the course of the interview or re-exploring topics that had been concluded, which illuminates the prevalence and pertinence of the topic under investigation.

Throughout the education interview schedule a number of broad questions are interspersed which aimed to investigate the hypothesis in a generic way and counter any possibility of the interviewees' responses being constrained by the structure of the three categories. These questions also provided the interviewer the opportunity to refer back to issues which arose during the course of the interview and afforded interviewees with the opportunity to expand, elaborate and summarise points that they had made up to this point. The broad questioning technique also provided an opportunity to achieve greater clarity by enabling the interviewee to summarise their position at times during the interview and to elaborate on points that were made in the course of the exchange. The design of the interview schedule also included consideration of how exactly the questions would be worded.

3.9.1 Wording of the Questions

The researcher was conscious at all times that the accuracy and effectiveness of the interview schedule is dependent on how it is used. Roulston (2010, p. 11) warns that 'some question structures have been found to have a certain kind of preference for the response'; a statement that is affirmed by Bogdan and Bilken (1998) who submit that the wording of the question will evoke different responses among different respondents. Bell's (2005) advice that the schedule should be managed to ensure that the form of questioning is clear, does not antagonise the respondent and allows responses to be recorded in a way that can be understood when the interview is over was adhered to. The concerns raised in the literature were considered to be reduced in this study, by the fact that each interviewee had an expertise pertaining to the issues under investigation and the language utilised in both the education and legal interview schedules contained specific meaning within their respective fields. In order to extend courtesy to the professionalism of the interviewees, questions were as open and as projective as possible and formal and leading questions were avoided as advocated by Roulston (2010).

Roulston (2010, p. 11) summarises the sentiment of the literature in respect of the structure of the wording of the questions: 'Many methodological texts advise qualitative interviewers to ask open rather than closed questions because closed questions have the possibility of generating short one-word answers corresponding with factual information implied by the question'. In this study the open ended question was used as appropriate. However, Oppenheim (1992, p. 5) argues that: 'Very occasionally, after a topic has been explored in a free-style manner, a very deliberately directive probe will be used'. In this study broad, leading questions were used to address the third sub issue arising from the hypothesis in the

schedules for the education interviewees. A leading question was also utilised in order to probe the education and legal interviewees' response to the hypothesis. The advice of Bogdan and Bilken (1998) was also influential in this study, that it is important to ask respondents to elaborate in order to seek clarification. The researcher was aware that the probing of respondents for clarification affected the sequencing of the questions.

3.9.2 Sequence of the Questions

Oppenheim (1992) advocates that interview schedules should strive for precision and conformity in conducting an interview and questions should not be asked out of sequence. However, due to the nature of the sample, and the uniqueness attaching to each of their positions, a schedule which constrains the opportunity to explore responses would reduce the quality of data sourced. In this study questions were intended to serve as guides to the direction of the interviews only. The exact text of the questions did not always conform to what is presented in the interview schedule, and questions other than those presented in it were included in the interview process; however, the overall structure of each of the interviews was maintained.

The sequence of the interview in this research process was determined by the manner in which the dialogue developed, and areas of relevance not included in the schedule, which arose during the course of the interview, were explored. This concept concurs with the sentiment of the nature of qualitative research according to Bogdan and Bilken (1998), namely that procedures are not standardised and flexibility enables interviewers to collect data on unexpected dimensions of a topic. Ultimately, the definition of the semi-structured

interview by Cohen *et al.* (2000, p. 146) summarises the approach taken in this study with regard to the interview schedule:

The semi-structured interview enables respondents to project their own ways of understanding the world. It permits flexibility rather than fixity of sequence of discussion, and it enables participants to raise and pursue issues and matters that might not be included in the pre interview schedule.

This ensured that the most accurate depiction of the insights of interviewees was produced which adheres with ethical protocol.

3.10 Ethics of Conducting the Interviews

In line with the procedures of St. Patrick's College a form for ethical approval was submitted to the college and clearance was received in March 2009. The form included an outline of potential risks to participants as well as risk management procedures. There was a risk that participants in the study would feel obligated to take part because they were being contacted in their role or job rather than as individuals. This was overcome by inviting the participants to be involved in the research by letter in order to allow them time to fully consider their involvement in the research. This letter, clearly detailing the content of what interviewees would be asked to discuss, also aimed to counteract a situation, where participants would consider the interview to be outside the remit of their job description.

Some interviewees may also have had concerns that their personal information would be kept confidential. This was a risk in this research because the data contained not only the participants' personal viewpoints but also their professional opinions. This risk was managed by assuring participants of the safekeeping of their data at every stage of the process and also

by the researcher strictly honouring this guarantee of safekeeping of data. The researcher ensured that participants were aware that the data would not be used for any purpose other than that specified by the researcher.

The research strategy attaching to this study aimed to uphold the confidentiality of the interviewees in circumstances where the study was dependent upon the participation of the research sample. Furthermore, the exploratory nature of the study resonated with the open nature of interviews being conducted in the absence of the need for interviewees to orchestrate a commentary in line with the policy or vision of the particular representative body of which they were attached. However, the nature of the sample and references to particular bodies in the text of the dissertation presented a small risk that participants would suffer loss of confidentiality. Participants were made aware of this.

Interviewees were informed, by way of initiating letter, about the purpose of the research and why their involvement was necessary in order to comply with the researchers' responsibility to provide this information (Bell, 2005). Participants were advised again of this when they volunteered to be interviewed. They were also given an opportunity to question the study or its implications at this point. At the beginning of each interview a summary of these points was once again presented to interviewees.

The interviewees were given adequate time to decide whether they wished to participate. They were interviewed at a time and location of their convenience. The interviewees were also assured that the interview would not run over the agreed time of one hour and this was adhered to in all cases. The researcher was punctual for all appointments and showed

courtesy and consideration at all times. All efforts were made to protect the confidentiality of the participants. The names of the interviewees were not included in the text of the research. They were reassured that their confidentiality would be protected both in informal conversations that the researcher has concerning the dissertation and formally in the manner in which the dissertation is written. However, due to the nature of the positions held by the interviewees, a possibility exists that a turn of phrase could identify an interviewee. While this is a small risk, the interviewees were made aware of this. They were also assured that without their permission the data collected would not be used for any purpose other than that stated at the outset of the project. A further issue which arises in relation to the ethics of interviewing is that of recording the interviews.

3.10.1 Recording the Interviews

Recording the interview presents the interviewer with many advantages including the verbatim record of the whole interview (Bell, 2005). Furthermore, interviewers can give their full attention, probe responses, engage in eye contact, interpret non-verbal communication and make observations. The recording guards against the interviewer substituting their own words, which reduces the tendency of bias. According to Barbour (2008), recordings provide the most accurate method of collecting information from interviews and this advice influenced the decision to record the interviews in this study. It is noted that recording devices can make the respondent anxious and inhibit responses (Bell, 2005). However, this limitation was minimised due to the nature of the sample in this study, and their professional experience with regard to the conduct of interviews.

This study did not presume that everyone was willing to be recorded. On the consent form interviewees were asked if they would find the recording of the interview to be an acceptable procedure; all fourteen interviewees found this to be satisfactory. The interviews were recorded using a mini disc and a microphone. A dictaphone was also used as back up to the other recording in the event of data loss. This procedure was explained to interviewees. They were also informed at the start of the interview that both the tape recording and the mini disc recording of the interview would be kept in the possession of the researcher, that nobody else would have access to it and they would both be destroyed on completion of the dissertation. The candidates were reassured once again of their confidentiality and the safekeeping of minidisks and tapes and interview transcripts. These ethical protocols were also adhered to while piloting the interviews.

3.11 Piloting the Interviews

The purpose of piloting the interview schedule was to determine whether the questions asked were intelligible to interviewees; to ascertain whether the interviewees would find any of the questions unacceptably intrusive; to identify and remedy interview schedule inadequacies, inconsistencies, redundancies and ambiguities. The interview was piloted on an interviewee from each category two months before the official interviewing began. These two people were both known to the researcher. The interviewees were reassured that all confidentiality and confidentiality issues regarding the interview would be honoured. The interviews were recorded with the consent of the interviewees for the purposes of both having access to the recording in order to make any necessary changes to the interview schedule and to test the equipment. The researcher assured the interviewees that the recordings would be kept safely and confidentially.

During this pilot period, decisions taken regarding the interview procedure evolved. Ambiguous wording of certain questions were revised. Some questions were re-grouped to minimise repetitive questions. Issues relating to the timing of the interviews were addressed. The legal interview took only half an hour which resulted in changes being made to both the interview schedule and the speed at which the interview was conducted. Furthermore, the approach to the interview by the researcher was reconsidered. By listening to both of the pilot interview recordings, it became evident that the researcher had adhered too rigidly to the interview schedule and the topic had not been explored in a conclusive way. Leads, which had occurred, were not followed and exploration only occurred on topics that related directly to the literature review. Once facts had been expressed, there had been no attempt to find out the meaning that the interviewees ascribed to them or how they perceived them. The evaluation of this interview prompted a change in approach by the researcher. This new approach was an attempt by the interviewer to foster a technique which promoted greater investigation and exploration of all topics that occurred, thus ensuring that the advantages of the semi structured interview as a method were being exploited. Attempts were made to clarify answers, to probe responses and to encourage elaboration. The changes made as a result of the pilot interviews ensured that the interviews could be conducted in a more professional manner.

3.12 Conducting the Interviews

The interviews were conducted between May and September 2009 at various locations and were approximately one hour in duration. As time and place for the interview was the interviewee's choice, most interviewees chose daytime hours and the interviews were conducted at the workplace of the interviewee. There was one exception to this where one

interview took place in the evening at the home of the interviewee. No interview was interrupted. All interviews were recorded and transcribed on completion. Once the interviews had been conducted, the process of analysing the data began.

3.13 Data Analysis

Data analysis is the process of bringing order, structure and meaning to the collected data (Marshall and Rossman, 1995). Moreover, Barbour (2008, p. 232) contends that data analysis 'moves beyond the merely descriptive use of theory to critically engaging with theory to revise or expand frameworks'. The aim of the data analysis process in this study is summarised by Wolcott (2009, p. 56) and seeks to 'work toward a conservative closing statement that reviews succinctly what has been attempted, what has been learned, and what new questions have been raised'. The insights of Barbour (2008) and Wolcott (2009) ultimately raise a fundamental concept that encompasses the vision of the data analysis process in this study; namely to raise new questions and to expand upon the study's framework in order to move the research beyond a regurgitation of the findings. Indeed, many of the decisions regarding data analysis spring from the particular vision of qualitative research attached to the study (Roulston, 2010). The rationale behind the vision of this study cannot be separated from the nature of the sample of key stakeholders, who are members of representative bodies which hold positions of influence within the area under investigation in the study. The availability of such a panel of experts and their willingness to participate in the study advanced the need to utilise and accurately present the emergent findings in order to arrive at a contemporary and up to date statement pertaining to the position of parents as primary educators in the partnership arrangement today.

3.13.1 Planning for Data Analysis

A variety of methods exists for the analysis of data; in this study the advice of a wide selection of researchers was interpreted with the aim of carrying out a systematic and rigorous evaluation of the outcome of interviews. The data analysis stage of the research process is a labour intensive process and adequate time was apportioned to this in the planning stages of the study as advised by Seidman (1998, p. 95): 'In planning the study allow at least as much time for working with the material as for all the steps involved in conceptualising the study, writing the proposal, establishing access, making contact, selecting participants and doing the actual interviews'. Planning was also required in order to administer the transcripts emerging from the interviews efficiently. The participant consent forms were copied and filed in a safe place, the recordings of the interviews were labelled accurately and decisions made in the entire process were recorded and stored in computer files. Notes taken after the interviews were also filed. These observation notes were not detailed records but rather more general comments on the nature of the interaction which provide 'contextual details which can assume significance at a later stage' (Barbour, 2008, p. 192). Throughout the data analysis stage all decisions and actions were documented systematically and in detail as advised by Coffey and Atkinson (1996). The legal and educational interview recordings were preserved and available for reanalysis (Marshall and Rossman, 1995). The goal of the administration of data analysis in this study was to be able to trace interview data to the original source on the interview recording at all stages of the research. This was achieved by storing a general transcript on a computer file constituting all of the legal and education interviewee transcripts.

3.13.2 Transcription of the Data

The data was transcribed manually from the minidisks to computer based word-processing files individual to every participant as recommended by Flick (2002, p. 171): 'If data have been recorded using technical media, their transcription is a necessary step on the way to their interpretation'. Electronic files were saved so that the identity of each participant remained confidential but coded so that the participant's comments could be identified by the researcher in accordance with the advice of Barbour (2008). Further decisions pertaining to the transcription process focused on the punctuation of the transcripts.

3.13.2.1 Punctuating the Transcripts

Decisions about where to punctuate the transcripts are significant according to Seidman (1998) in circumstances where the process of transcribing the data is made complex by the fact that participants do not speak in paragraphs or always clearly indicate the end of a sentence by voice inflection. Kvale (1996) contends that punctuating is one of the beginning points of analysing and interpreting the material and must be done thoughtfully. Flick (2002, p. 171) states that 'exaggerated standards of exactness in transcriptions' can interfere with the legibility of the text of the transcriptions. Moreover, Barbour (2008, p. 193) warns that: 'It is important to pay attention to emphasis and tone, which can significantly alter the meaning of an utterance'. However, the difficulty outlined within the literature was not encountered in this study in circumstances where the interviewees manifestly made full and conclusive statements in respect of the concepts and questions under investigation during the interviews.

However, Flick (2002) notes that different transcription systems, which vary in their degree of exactness, are available. Kowall and O'Connell (2002) highlight that a standard of transcription has not yet been established. In this respect, Strauss (1987) advises against an over-exact description of data which absorbs time and energy and considers it more reasonable to transcribe what is required exactly by the research question. However, this advice does not resonate with the vision of this study, which is to ensure that new questions are raised and to expand upon the study's framework in order to move the research beyond a regurgitation of the findings. Therefore, in order to accommodate the exploratory nature of this study, all of the interviews were transcribed 'with more or less meticulous handling of the text' (Flick, 2002, p. 171).

3.14 The Research Instrument

The data analysis section of this chapter details the process of development of a research instrument which aims to meet the demands of exploring the hypothesis while also being based on a reputable theory of analysis. For the purpose of this study analysis can be defined as a process of inductively deriving statements of fact through a rigorous and systematic scrutiny of the interview transcripts. The methodology adopted by this study draws predominantly on the work of Lincoln and Guba (1985) who, in turn, draw on Glaser and Strauss's (1967) methodological framework.

Lincoln and Guba (1985), Glaser and Strauss (1967) and Taylor and Bogdan (1984) stress that because qualitative research is conducted in a diversity of settings by researchers from diverse fields of study, it is not feasible to impose a standardised methodological framework

to be adhered to on all occasions. Similarly, Merriam (1988, p. 148) observes that 'exactly how a researcher makes sense of data, sees patterns or relationships or discovers theory cannot be explained as a logical process'. However, in this study the horizontal or comparative analysis theory of Lincoln and Guba (1985) and Glaser and Strauss (1967) provided a framework on which to base the process of data analysis. The constant comparative method offered the researcher in this study means to access and analyse the understandings arising from the sample of legal and education interviewees so that they could be integrated into a model that sought to generate a statement on whether the character of Article 42.1 of the Constitution has affected Irish education and educational policymaking. The rationale for basing the analysis of the research data on the constant comparative method is outlined throughout the following section.

3.15 The Constant Comparative Method

Barbour (2008, p. 217) defines the constant comparative method as a 'painstaking process' which involves 'looking systematically at who is saying what and in what context' and furthermore considers it 'absolutely essential in producing rigorous analysis'. To further the conceptualisation of this method of data analysis Wengraf (2001, p. 302) breaks the constant comparative method down into two stages: 'Firstly, the multiplication of hypotheses around any given datum until the imagination and knowledge of the researchers is exhausted; secondly, the consideration as to whether the next datum being examined enables any of the previous hypotheses to be eliminated'.

The focus of this study is on comparing the responses of the interviewees to the questions generated from the hypothesis. This process took the form of a rigorous examination of the responses of the participants to the questions posed in the respective interview schedules, identifying the core categories which emerged, discerning the interrelationship between those core categories, and examining how they related to the theory of partnership extrapolated from the professional literature. It must be pointed out that the above narrative does not represent a series of steps which were taken in sequential order, as many techniques were used simultaneously. The constant comparative method began by outlining a conceptual framework for the analysis of the data generated by the interviews.

3.16 Conceptual Framework

The transcripts of the interviews amounted to a very large corpus of data. The challenge was to make sense out of such a large amount of data and to impose order and structure. The objectives of the research and the approach of the researcher are the main elements, which dictate the conceptual framework, within which order and structure can be imposed on the data (Morton-Williams, 1985). The vision and objective of this study, namely to raise new questions and to expand upon the study's framework, negated the use of the interview schedule as the framework within which to organise the data.

The data for the legal interviewees and the education interviewees are initially presented and analysed as two separate data sources in chapters four and five respectively. At all times throughout the data analysis process the legal and educational data were treated as two separate and distinct sources of data. The legal and educational data findings are

subsequently analysed comparatively in chapter six. In order to complete this process in an accurate manner emphasis was placed on efficient organisation of the data.

3.17 Data Organisation

In order to achieve the goal of tracing interview data, at all stages of the data analysis process, the data were first made accessible by organising them. The data were not being analysed at this stage but rather sorted into various files which were copied and filed separately for security. The first stage of the data analysis process involved the researcher becoming familiar with the data by reading transcripts several times and repeatedly listening to the recordings of the interviews.

The next stage involved segmenting the body of data into discrete 'incidents' (Glaser and Strauss, 1967) or 'units' (Lincoln and Guba, 1985) in readiness for coding to categories. The initial data units pertaining to the legal interviewees and education interviewees are located in appendices three and twelve at pages 300 and page 309 respectively and outlined at figures one and two below.

Figure 1: Initial Data Units of Legal Interviewee Transcripts in Preparation for Coding

- Bunreacht na hÉireann
- Article 42.1
- Catholic Theology
- Role of the State in Education

- Role of the Courts in Education
- The Courts and the Constitution
- Education Act, 1998

Figure 2: Initial Data Units of Educational Interviewee Transcripts in Preparation for Coding

- Primary and Natural Educator
- Parents' Rights
- Rights of the Child
- Choice of School
- Transition to School
- Home Education
- Involvement
- Educational Partnership
- Boards of Management
- Role of the Courts
- Role of the Law and Legislation
- Role of the State
- Role of the Catholic Church
- Role of the Teacher Unions
- Role of the Colleges of Education
- Dominant Stakeholders in Education
- Limited Stakeholders in Education

The number of emergent data units from the legal transcripts was naturally lower than the number of data units attaching to the education interviewees in circumstances where there

were only three legal transcripts as opposed to eleven education interviewee transcripts. A data unit may be defined as the 'smallest piece of information about something that can stand by itself, that is, it must be interpretable in the absence of any additional information other than a broad understanding of the context in which the inquiry is carried out' (Lincoln and Guba, 1985, p. 345). The incidents or units were marked with a series of codes for the purpose of identifying anchors that would allow the key points of the data to be gathered (Appendices 4-10; 13-29). The codes were grouped into similar concepts in order to make them more workable. The advice of Seale (1999, p. 154) in respect of coding was adhered to:

Coding is, of course, an attempt to fix meaning, constructing a particular vision of the world that excludes other viewpoints...however coding that fixes meanings too early in the analytic process may stultify creative thought, blocking the analyst's capacity for seeing new things.

From these concepts, categories were formed (Appendix 4-10; 13-29). Furthermore, categories arose from miscellaneous data or data that did not neatly fit into the coding technique. Ultimately, the data analysis process in this study was inductive in that the categories emerged from the data rather than being imposed upon them. The purpose of this aspect of the analysis was intended to 'open up the inquiry...to fracture, break the data apart analytically' (Strauss, 1987, p. 29).

The categories were broad descriptions of concepts in order to provide the researcher with a framework for progression. Categories were subject to ongoing content and definition change over the course of the analytical process. Categories were changed and amended as the transcripts of the interviews were read, re-read and systematically examined. Over the course of this analytical process, some categories were substantiated quickly while others needed to be redefined, new categories emerged, sub-categories needed to be developed,

overlapping led to merging of categories, and some categories were eliminated as irrelevant to the focus-of-inquiry. As the procedure progressed, data units that failed to fit with categories already generated led to the formation of additional categories. Subsuming particulars into general categories is a conceptual and theoretical activity that evolves and develops through successive iterations until the category is saturated and new data do not add meaning to the general category (Glaser and Strauss, 1967).

The broadest categories possible were firstly identified as advocated by Wolcott (2009) and these categories were sufficiently comprehensive to allow all of the data to be sorted. Relevant 'chunks of meaning', which varied considerably in length, were included in each category as recommended by Jones (1987). However, in respect of these categories the advice of Barbour (2008, p. 218) was borne out:

While our research categories can alert us to the existence of helpful conceptual models or lenses through which to interpret our data, we also need to remain alert to the seduction of readymade theoretical frames or concepts and their capacity to hide as much as they can potentially reveal.

In this regard, categories underwent content and definition changes as understandings of the properties of categories and the relationships between categories were developed and refined over the course of the analytical process. The categories underwent revision and sub-categories were necessitated by the interrelatedness of the sections as recommended by Marshall and Rossman (1995). However, not all data fitted into categories or subcategories or themes. In this regard, categories were split as advocated by Miles and Huberman (1984). This resulted in further categorisation, such as finding superordinate concepts that brought together similar categories and further sub-categorisations beneath these. Some of the further sub-categories were closely related to the original concrete categories while others

conceptualised wider theoretical concepts. Glaser and Strauss (1967, p. 267) point out that: 'This process of comparison is one which very soon leads to ideas about the dimension and properties of the category, including its relationship with other categories and including the differences as well as the similarities between people's constructions'. The emergent categories pertaining to the legal and educational interviewees are displayed in the appendices (Appendices 4-10; 13-29). In segmenting the data, care was taken to develop an indexing system so that, at all stages of the analytical process, incidents or units could be readily traced back to their original context in the computer files of transcripts.

3.18 Data Reduction

Once the data were sorted into broad categories the process of tightening the data began which aimed to reduce the detail while maintaining the focus. The aim of the data reduction process in this study reflected the advice of Wengraf (2001, p. 338): 'Ensure that, though being able to present a very small amount of your data, your 'condensation' remains as true as possible to its complexities'. The aim of each reduction act in this study was to bring the masses of data into more manageable proportion, thereby making them easier to comprehend and work with.

The vast array of words, sentences, paragraphs, and pages have to be reduced to what is of most importance and interest (McCracken, 1988). Miles and Huberman (1984) suggest pattern finding as a productive analysis strategy in this context particularly if the data overload is severe. Wolcott (2009, p. 35) states that the tightening phase is also the time to begin to look for needless repetition; the focusing of the data at this stage does not endeavour

to include everything but rather to ‘discover essences and then to reveal those essences with sufficient context’. However, repetition in the data in this study was not eliminated but rather utilised to identify trends, patterns and themes stemming from the data.

3.19 Categories leading to Themes

The key stage of analysis involved identifying a number of common themes and patterns from the emergent categories (Appendices 4-10; 13-29). Barbour (2008) suggests that the process of analysis attempts to elaborate those categories to the point where enough of the individual essence of data is preserved and represented. This process further includes considering ‘the supporting evidence in each category and determining how categories may be linked’ (Ely *et al.*, 1991, p. 150). Categories were utilised in this study to assist with the organisation of the data. The categories served a further function, that of assisting with the determination of the meaning of the data. The content of the categories was compared for the purpose of identifying particular themes as advocated by Jones (1987). Common patterns and processes that recurred across the different categories and subcategories were interrogated for the purpose of identifying themes. Eleven emergent themes from the legal transcripts and thirty two emergent themes from the education transcripts are located in appendices eleven and thirty respectively at pages 308 and 328 and outlined below at figures three and four. These emergent themes became the headings under which the legal and education interviewee data are presented in chapters four and five. The corresponding number attaching to each theme indicates their positioning within the table of contents as indicated below:

Figure 3: Presentation of Legal Interviewee Data

4.1.1	Bunreacht na hÉireann
4.1.1.2	Role of the Constitution
4.1.1.3	History of the Constitution
4.1.2	History of Article 42.1
4.1.3	Religious Denominations in Education
4.1.3.1	Family Based on Marriage
4.1.3.2	Role of the Catholic Church in Education
4.1.4	Role of the State in Education
4.1.5	Role of the Courts in Education
4.1.6	The Courts and the Constitution
4.1.7	Education Act, 1998

Figure 4: Presentation of Educational Interviewee Data

5.1.1	Primary and Natural Educators
5.1.1.2	Natural Educator
5.1.1.3	Primary Educator
5.1.2	Parents’ Rights
5.1.2.1	Culture of Accountability
5.1.3	Rights of the Child
5.1.4	Choice of School
5.1.5	Home Education
5.1.6	Parental Involvement
5.1.7	Educational Partnership
5.1.7.1	International Recognition
5.1.7.2	Current Status of Partnership
5.1.7.3	Definition of Partnership

- 5.1.7.4 Partnership in Operation
- 5.1.7.5 Partnership and Communication
- 5.1.7.6 Partners in Partnership
- 5.1.7.7 Role of the Department of Education and Skills
- 5.1.7.8 Role of the School
- 5.1.7.9 Teachers and Partnership
- 5.1.7.10 Role of the Teacher Unions
- 5.1.7.11 Obstacles to Partnership
- 5.1.7.12 Parental Perception of Partnership
- 5.1.8 Boards of Management
- 5.1.9 Role of the Courts
- 5.1.10 Role of the Law and Legislation
- 5.1.11 Role of the State
- 5.1.11.1 Role of the Department of Education and Skills
- 5.1.11.2 Minimum Standard of Education
- 5.1.11.3 Role of the Inspectorate
- 5.1.12 Role of the Catholic Church
- 5.1.13 Role of the Colleges of Education
- 5.1.14 Dominant Stakeholders in Education

The presentation of each of the themes encompasses direct quotations from the interviewee transcripts in order to provide a true and accurate insight into the interviewee data. In accordance with ethical protocol the interviewee transcripts cannot be published in this dissertation in circumstances where the inclusion of the transcripts would certainly reveal the identity of the interviewees.

Once the themes emerged and were presented, as outlined in figures three and four above, the research literature from chapters one and two, relevant to the key themes, was referenced. The sorting, coding, analysis of categories and theme generation embodied a preparatory process for the next stage of the analytic procedure which involved drafting up a 'propositional statement' for each category.

3.20 Propositional Statements

At this stage the researcher was seeking causal relationships, continuities, discontinuities, convergences and divergences between the emergent themes, at figures three and four on page 109, as well as relationships with themes identified in the literature, at chapters one and two. A 'propositional statement' may be defined as 'a statement of fact the researcher tentatively proposes, based on the data' (Maykut and Morehouse, 1994, p. 140). The aim of drafting the propositional statements in this study was to shift the data analysis procedure beyond identification and description of broad themes to that of analysing and cohering meanings embedded in the data and drawing up a theoretical statement that attempted to convey the collective meaning of the data. Throughout this reiterative process, propositional statements underwent changes as the researcher developed and refined theoretical insights into the study. Rose and Sullivan (1993, p. 10) identify the task of the researcher in this context:

The task we are faced with is to ask why these patterns exist; in other words to produce explanations of them. We couch these explanations in terms of theories. On the basis of theory we can develop hypotheses about relationships which ought to exist, if theory is valid.

In this study theories that arose were interrogated, conflicting theories were highlighted and argument was generated surrounding possible rationale for emerging conflicting theories.

Throughout this process the researcher constantly referred back to the sub-issues arising from the hypothesis in order to avoid generic analysis of theories and to correlate the findings with the objectives of the study. However, the researcher was careful not to restrict the analysis to questions emerging from the hypothesis and in that regard miscellaneous theories were included in the findings in order to truthfully represent the data and to endorse the vision of the data analysis process in this study.

As the process of theory building drew to a conclusion, substantiated propositional statements constituted the roughly formed outcomes of the study; some of these propositions stood alone, sufficiently describing or explaining aspects of the hypothesis, while other propositions were inter-related. Ultimately, the stand-alone propositions that were formed by connecting two or more other propositions constituted the study's outcome propositions, as advocated by Maykut and Morehouse (1994). The advice of Wolcott (2009, p. 114) was adhered to at this stage of the study:

There is an implicit evaluative dimension in all description. The antidote is restraint. The urge to lend personal opinion and judgment seems to become strongest when we begin searching for the capstone with which to conclude a study. You must recognise it creeping into your work. There is nothing wrong with offering personal opinion or professional judgment, but it is vitally important to label it carefully and to search out and acknowledge its origins in your thinking.

Therefore, the final step in the analysis process in this study was to make comparisons between the emergent patterns and their counterparts in the professional literature, in order to draw implications for use, and to achieve greater clarity regarding the sub-issues arising from the hypothesis. The presentations of these propositional statements are located within chapters four and five and are identifiable in the table of contents at sections 4.2; 4.3 and 5.2.

The distinction between the presentation of the data and the analysis of it are indicated by bold font within the table of contents. Chapters four and five are both divided into distinct sections, namely a presentation section followed by an analysis section. Chapter four contains three broad sections; a presentation of legal interviewee data; analysis of legal interviewee data and analysis of legal interviewees with reference to chapter one. The data from the legal interviewees was initially presented with no attaching analysis, in order to ensure that the substantive transcripts of the legal interviewees could be exposed, in circumstances where there are only three legal interviewee transcripts. Chapter five contains only two broad sections as displayed in the table of contents; presentation of educational interviewee data and analysis of education interviewees with reference to chapters one and two. The legal interviewee transcripts are compared against trends from chapter one while the educational interviewee transcripts reflect an analysis pertaining to both chapters one and two. This occurs because the legal interviewee data does not directly correlate with the literature in chapter two, which is educational in nature. Conversely, the education interviewees made submissions in relation to the law and thereby their data must be compared with both chapters one and two.

The division of both chapters four and five into a presentation section followed by an analysis section, as evidenced in the table of contents, results in repetition of particular headings within the table of contents and furthermore throughout chapters four and five. The exploratory nature of this study transcends the need to confine the analysis of the data to the headings under which it was presented. Having considered the methodological data analysis utilised in this study, it is important to highlight criticisms of this philosophical paradigm.

3.21 Criticisms of the Constant Comparative Method

Ely *et al.* (1991, p. 142) state that:

We come to the research with whatever understanding of analysis we bring from previous work. We also come with the conventions of our respective disciplines and professionalism, the advice of our mentors, and the models we have internalised from whatever we may have read. We view our data through the lenses we have at our disposal at any given time.

Other commentators criticise the constant comparative method for its reliance on the researcher to act in an unbiased manner when analysing the data, notwithstanding their familiarity with the topic under investigation, and purport that it is not possible for a researcher to enter a research field entirely theory free (Corbin and Strauss, 2008). In order to counteract this issue the advice of Barbour (2008, p. 287) was borne out in this study: 'We should try, therefore, to subject to critical examination our own theoretical assumptions in the same way as we would treat the explanatory frameworks of our respondents' assumptions'. In the case of this inquiry, very considerable volumes of transcript material were produced that were open to multiple interpretations. In accordance with the recommendations of Bogdan and Bilken (1998), the researcher was careful to apply the minimum of interpretation so as not to overanalyse the data and prevent the full richness of the participant contributions from emerging. In an effort to guard against the advancement of the researcher's own beliefs and assumptions a number of strategies were adopted in this study, as outlined below in accordance with the advice of Marshall and Rossman (1995, p. 145), that the researcher 'should build in strategies for balancing bias in interpretation'.

3.22 Prevention of Bias

The study utilised a peer debriefer to increase the trustworthiness of the qualitative data who would raise questions about bias, the position of the researcher within the text and who would read and critically examine all of the data from the study. The peer debriefer role for this research was undertaken by the research supervisor. Furthermore, the interactive and iterative nature of data collection facilitated a constant verification, elaboration and checking out of interpretations, with provisional interpretations being tested against further data (Roulston, 2010). As the analysis proceeded, conclusions were tested out and elaborated systematically for their soundness and sturdiness. The conclusions became more explicit as they were verified by the data in increasingly grounded analysis. At all times in the data analysis process in this study the researcher was open to the idea that a potential theory was inapplicable or had to be discarded in the light of other data. This aimed to ensure that researcher bias was avoided. An active creative approach was undertaken in the process of analysing the data in a reflexive, critical way. The data was continually checked and rechecked and comprehensive examinations of the data were undertaken. Ideas were explored, modified and even abandoned in light of further analysis. As advised by Marshall and Rossman (1995) the data analysis remained open to the novel or unexpected insight that might emerge. In this study the researcher remained open to contrary evidence when it appeared. Purposeful examinations of possible rival hypotheses were ongoing. Any assumptions that were made with regard to the data analysis were stated. The researcher guarded against value judgment in the analysis. As advised by Coffey and Atkinson (1996, p. 193), 'careful attention to detail, to scholarship and to the rigorous execution of the research' was given.

These safeguards aimed to reduce the bias outlined by Miles and Huberman (1984, p. 216): ‘People habitually tend to overweigh facts they believe in or depend on, to forget data not going in the direction of their reasoning, and to see confirming instances far more easily than disconfirming instances’. Finally, the researcher was directed by the guiding hypothesis of the study; however, the hypothesis did not act as a constraint in analysing the research. In order to achieve this, the study engaged in speculative consideration with regard to the hypothesis.

3.22.1 Speculation

Coffey and Atkinson (1996, p. 191) highlight that: ‘Although one should be careful not to build elaborate theoretical edifices on inadequate data or inadequate explorations of the data, one should be prepared to speculate about them’. In particular, the requirement to try ideas out through repeated interactions with the data means that those ideas must be tested rigorously with comprehensive examinations of the evidence. Coffey and Atkinson (1996, p. 191) further assert that ‘the documentation is part of the transformation of data from personal experience and intuition to public and accountable knowledge’. Similarly, Bulmer (1982, p. 38) purports that: ‘There is a constant interplay between the observation of realities and the formation of concepts, between research and theorising, between perception and explanation’. Ultimately, this study does not present good ideas with supportive examples but rather seeks to ground theory in empirical evidence relying on comprehensive searching and systematic scrutiny. Moreover, this study illuminated differing viewpoints of interviewees when they occurred, as is borne out in the manner in which the data is presented.

3.23 Data Presentation

The study presents the data in a readable, accessible form. Furthermore, it is reported in a manner that is accessible to other researchers, practitioners and policymakers. It makes adequate translation of findings so that others will be able to use the findings in a timely way as advocated by Marshall and Rossman (1995). The nature of the qualitative data dictates that the display of the data takes the narrative form. The aim of the data presentation is embodied by Charmaz (2006), who recommends that researchers need to immerse themselves in the data, to keep the participants' voice and meaning present in the theoretical outcome and to embed the narrative of the participants in the final written research.

The researcher considered an alternative option of data presentation which involved the creation and use of codes which are inputted into the computer programme NIVO in order to provide a secondary and independent form of categorisation of parts of the data. Notably there were other statistical methods that might have been useful, but a description of these is beyond the scope of this chapter. However, the use of a statistical method in this study would have involved the use of an alternative methodological framework. The exploratory nature of this study and its focus on opinion rather than direct answers was considered to be inconsistent with a computer-dependent analysis strategy. Some of the questions in the interview schedule are opinion and others are factual. A computer programme might have restricted the development of the opinion-driven questions. Furthermore, the presentation of the qualitative narrative findings which emerged from this study were inconsistent with the use of charts and graphs, which proponents of computerised tools for data analysis consider to be one of its greatest assets. Moreover, Barbour (2008) states that: 'Some computer packages claim to help with theorising, but can only do so by alerting that researcher to

similarities contained within the data; importantly this relies on the coding scheme which the researcher had imposed on the data'. Furthermore, Coffey and Atkinson (1996) concede that many researchers input their own analysis notwithstanding that computer packages are employed. For these reasons the computer programme NIVO was regarded as not being complementary to this study.

3.24 Limitations of Educational Measures

All research involves measurement; the most important characteristics are objectivity, reliability and validity (Barbour, 2008). According to Borg (1981, p. 93), the objectivity of a measure 'depends on the degree to which it may be influenced or distorted by the beliefs or biases of the individuals who administer or score it'. Limitations relating to objectivity are discussed in the section on bias including the effects of the researcher and the interviewee on the study. Reliability, as applied to educational measurement, may be defined as 'the level of internal consistency of the measure, or its stability over time' (Borg, 1981, p. 97). In this regard, Ozga and Gewirtz (1994, p.134) suggest that 'perhaps it is simply that the difficulty of access to people who 'make' policy precludes anything other than conventional enquiry'. However, the interviewees in this study gave their personal opinions based on their acquired experience as members of representative bodies rather than presenting statements of policy.

Questions concerning the validity of this study must also be highlighted. The validity of a study relates to the weight of interpretation that it can be given. Wengraf (2001, p. 1) cautions that interview data are 'only about a particular research conversation that occurred at a particular time and place'. Oppenheim (1992) labels the practice of trying to quantify a

small number as injudicious, because respondents are unlikely to be representative of the survey population nor will they all have received the same questions asked in the same way. However, the concerns of Oppenheim (1992) and Wengraf (2001) in respect of this study are nullified in circumstances where the sample of interviewees is not random. The interviewees distil particular knowledge and expertise stemming from their experience within representative bodies informing policy and practice decisions pertaining to parental partnership within the education and legal spheres or indeed from their influential positions within the legal and educational fields. Therefore the specific expertise and authoritative insight offered by the professional interviewees affords a persuasive foundation to the findings of the study. Persuasion must be based on factual objective interpretation of ideas, by specialised experts as far as possible. The proficiency and thoroughness of the statements made by the interviewees on the topics under investigation presented in delineated structured statements by the sample of experienced personnel reduced significantly the possibility of misinterpretation by the researcher. Moreover, the outcome of this research is based on veritable professional opinion stemming from personnel with years of experience within a position or representative body which is closely aligned with the topic under investigation in this study. The accuracy and in-depth knowledge, understanding and proficiency of the subject matter of this study were manifested by the manner in which the interviewees advanced their opinions by focusing on historical, legal, policy and practical reasoning to reference and source their viewpoints. Their exactitude and confidence in terms of the advancement of analysis of the topic under scrutiny grounded the findings in this study against a proficient, knowledgeable and expert sample and ultimately served to further the discussion generated by the hypothesis and to add clarity to the sub-issues arising from the hypothesis.

3.25 Conclusion

This chapter detailed the research methodology and the various decisions that were taken in relation to the design of the process to suit this particular study. It was influenced by relevant literature in this area and ultimately by the authentic and distinct sample of legal and educational experts who agreed to participate in the study. The hypothesis and sub-issues arising from the hypothesis of the study were documented because the design of the research process must ensure that appropriate data are collected in order to investigate these issues. Quantitative and qualitative methods were assessed in order to decide which approach best suited this research. Informed by the issues raised in the literature the main aim of the study is to research the understanding of educational parental partnership from major stakeholders in primary education in Ireland. Qualitative methods were favoured in this exploratory study. Interviews were selected given the nature of the data required to explore the three sub-issues arising from the hypothesis. The semi-structured interview was identified as the most suitable method. The reasoning behind this decision was explained in terms of the advantages of the interview; its constraints were also highlighted including the bias that results from using a subjective technique. The potential adverse effects of both the interviewee and the researcher were noted. Preparations for the collection of data were documented including deciding which sampling procedures to adopt, designing the interview schedule and piloting the interview. Each of these processes was explained as well as the process of conducting the interview, conscious of the ethical considerations surrounding it. The limitations of educational measures in relation to this study were explored.

The nature of this inquiry, which is underpinned by the theoretical framework of the constant comparative method and is exploratory in nature, dictated the adoption of a narrative oriented approach. The use of the constant comparative method of data analysis, in tandem with adherence to the concerns of validity and the practice of ethical research, served to productively generate understanding about the sub-issues arising from the hypothesis. A small number of significant and recurring themes were identified through a systematic analysis of the interview data. In essence therefore, the researcher sought to represent the opinions, knowledge, experiences and attitudes of the interviewees pertaining to the sub-issues arising from the hypothesis. The findings, generated through the approach documented in this chapter to design, justify and analyse the interviews, are presented in the next two chapters.

CHAPTER 4: LEGAL ANALYSIS

4.0 Introduction

This chapter presents and analyses the data findings stemming from the legal interviews. The data is initially presented under the emergent themes in order to aid the narrative of the comments of the legal interviewees rather than as an attempt to analyse the content of their comments (Appendix 11). The themes contain a presentation of the opinions of the legal interviewees in an unedited, factual and non judgmental fashion. The emergent themes are subsequently analysed and then compared and contrasted with chapter one, which contains the corresponding literature review.

4.1 Presentation of Legal Interviewee Data

At the outset of the outline of the findings from the legal interviews the significance and status of the Constitution as well as how it is interpreted, according to the legal interviewees, are presented in order to highlight the fundamental nature of the Constitution and ultimately to contextualise the comments of the interviewees in relation to the Constitution.

4.1.1 Bunreacht na hÉireann

The three legal interviewees highlight the fact that the Constitution is the most important source of domestic Irish law. Interviewee A expands on this point from a historical viewpoint and exposes the Constitution as being the hierarchical source of law today:

At the very bottom is the common law system, the traditional system we inherited from the British complemented by equity which was developed in the fourteenth

century; both of these are unwritten sort of customary codes. Then above that is legislation enacted by the Parliament which would be superior to both the common law and equity and above that again is the Constitution (Interviewee A).

Interviewee C explains that legislation and equity and common law must comply with the Constitution and further points out that legal cases, taken pertaining to Article 42.1, must comply with the sentiment of the constitutional position of the parent. The legal interviewees also acknowledge that the Constitution is subordinate to any measure that is necessitated by membership of the European Union as a result of Ireland's accession to the European Communities and subsequent treaties passed.

4.1.1.2 Role of the Constitution

The three interviewees state that the role of the Constitution is to identify how Ireland is organised and consists of a set of rules dealing with the governance of the country. Furthermore, as defined by the three interviewees, it delimits the powers and composition of parliament and the judiciary. Interviewee A summarises the role of the Constitution:

It is the guiding legal document for law makers and for judges and obviously it is there for citizens as well; they can see what their rights are and they can also see how government is meant to function (Interviewee A).

The interviewees all address the fact that a citizen can bring a constitutional challenge if one considers that the government is exceeding its powers in some way or that the Oireachtas has infringed their rights or that the courts are not acting within their jurisdiction. In order to expand on comments made pertaining to both the status and the role of the Constitution, each of the interviewees reverted back to the history of the Constitution and its formation.

4.1.1.3 History of the Constitution

Interviewee A asserts that there are two different philosophical streams influencing the Constitution of Ireland. He recalls that Ireland gained independence in 1921 and had a Free State Constitution from 1921 until 1937 which was replaced in 1937 by popular vote with the present Constitution. He considers the first constitutional influence to stem from the traditional liberal philosophical stream; the liberal democratic regime that was part of the British regime in Ireland and which also influenced the Free State Constitution. Interviewee A asserts that the liberal influence is evidenced in the present Constitution in standard guarantee clauses around personal liberty, freedom of association, freedom of expression and freedom of religion. In this regard, Interviewee A contends that these clauses are demonstrative of liberalism 'where the individual is at the heart of what society is about and you try to protect the individual against a potentially aggressive state'. Interviewee C sets the liberal influence in the Constitution against the backdrop of the strong rise of fascism in Europe at the time of the enactment of the Constitution and contends that: 'De Valera struck a balance between protecting people's rights but understanding their obligations to the community, and I think the fact that he struck a balance in favour of protecting people's rights was a remarkable achievement given the historical circumstances'.

Interviewee A asserts that the second constitutional influence stems from the introduction of a new philosophical influence, namely the teaching of the Catholic Church. He contends that Articles 41 and 42 relating to the family and education are an embodiment of the philosophical teachings of the Catholic Church, which can be traced by examining the language of Article 42.1.

4.1.2 Article 42.1

With regard to the term 'natural' educator within Article 42.1 Interviewee B explains that:

Article 42.1 flows from the nature of the family as the first unit of society. This is how parents will be enabled to provide the natural education (Interviewee B).

In reference to the term 'primary educator' within Article 42.1 Interviewee B states that:

The term 'primary' recognises that there will be other educators besides the primary ones; primary there is really first and foremost educator; and really therefore teachers and so on are in the form of people who assist the parent to educate the child (Interviewee B).

Interviewee A highlights the fact that teachers are the only stakeholders not mentioned in the Constitution in this regard. Interestingly, he also observes that:

There are no explicit constitutional rights once you go into second level schooling, there may be statutory rights under the Education Act but the constitutional rights apply only to primary schooling (Interviewee A).

Interviewee B makes further reference to the term 'primary educator' stating that:

The Constitution seeks to put the parent in the very first place, you know give the parent a prominence and that is very fine in theory, it is the law but it really has not filtered through in practice (Interviewee B).

Similarly, Interviewee C contends that parents are the primary and natural educators of their children in theory only outlining that:

In theory the parents should be the primary and natural educator of the child but in practice the State assumes the role of educating the child from year four onwards. Constitutionally there is a preference given to parents in deciding about the child's education which includes the right to educate at home but the State practically still has a substantial amount of educational control (Interviewee C).

Interviewee B asserts that the position of the parent as the primary educator in Article 42.1 is paralleled in Catholic theology which also ‘places the parent as the primary’. Similarly, Interviewee A contends that the educational provision, Article 42, stems from the Catholic stream and Catholic social teaching. He further highlights that Article 42.1 reflects the family as the primary educator of the child and not the State and contrasts this concept against the backdrop of the rise of Fascism in continental Europe and the rise of Communism in the Soviet Union:

The State were taking the children and making sure that they were brought up as good Communists or good Nazis, but in the Irish context, reflecting Catholic social teaching, the Constitution says it is the family who have the primary role and the State was then put in a supportive role. The State was to support the family in whatever decisions the family made about education (Interviewee A).

However, Interviewee C differs from the viewpoint of the other two legal interviewees and considers Article 42 to be consistent with the natural law emphasis of the Constitution as opposed to the Catholic influence stating that:

Article 42 is one of the natural law clauses. It is a definition of politics of where social control is exercised; it says that fundamentally, rather than the State exercising social control, which might be the case if you are living in Germany, social control rests with the family, and that is of course a prioritisation of the family and is a strangely Irish thing in some respects (Interviewee C).

The three interviewees all agree with the sentiment of Interviewee A:

Given the social composition of Irish society in 1937 and until relatively recently, whereas the Constitution gave pride of place to the family, in practice that meant the church because families were overwhelmingly Catholic and were overwhelmingly happy to have the church provide the education for their children (Interviewee A).

The three interviewees assert that this identity of parents and church fostered a system of publicly funded denominational education in Ireland, as summarised by Interviewee A: ‘In

the past the fact that the parents are stated to be the primary educators was used to support denominational education because parents identified with the churches’.

Interviewee B provides an alternative reason of how denominational education became predominant and traces this back historically to the Stanley letter of 1831 which initiated the process of government funded education in Ireland:

The British government initially were very glad to avail of the management skills such as they were of parish priests around the country and they were getting them as far as I am aware for nothing. So it was a cheap management system and the British were very glad to offload it to the church that, in turn, was very happy to accept it for the purposes of power (Interviewee B).

4.1.3 Religious Denominations in Education

Each of the three interviewees refer to the existing situation where the vast majority of primary schools in this country are denominationally controlled and assert that the existing situation is constitutionally acceptable because the Constitution states that the family should decide how children are to be educated. Interviewee A summarises this position:

The Constitution sees the State supporting parents in their choice of the type of education being provided and in order to promote the parents the church has got involved; there was denominational education in Ireland since the nineteenth century and before the Constitution but what I am saying really is that the Constitution continued that system, it endorsed that system, it did not undermine it (Interviewee A).

Interviewee A further highlights the case of *Crowley and the AG* [1980] IR 102 to illustrate that denominationally controlled primary education is compatible with the Constitution. Notwithstanding the viewpoint of the interviewees with regard to denominational education, ultimately it is evident that the three legal interviewees conclude that constitutionally the

family is the dominant stakeholder in primary education and furthermore consider that constitutionally this appears to be the family based on marriage.

4.1.3.1 Family Based on Marriage

All three interviewees contend that the constitutional prioritisation of the family is the family based on marriage, even though the matter has not been explicitly addressed by the courts. Interviewee A points out that the Supreme Court has taken the view in custody cases that Articles 41 and 42 apply to married families. However, he submits that in analysing the question of education, rather than custody it would be difficult to deny unmarried parents the sort of educational rights that parents have:

My sense is if you have got an unmarried couple or a cohabiting couple who want their child to receive a certain type of education it is going to be difficult for the courts to deny those rights. I do have to admit though that there is no judicial decision on this, I am speculating as to how the courts might address this. I know in a sense I am going out on a limb on this, and I cannot point to any judicial decision to support my instinct here (Interviewee A).

While constitutionally the family based on marriage or otherwise is considered by all legal interviewees to be the dominant stakeholder, the interviewees assert that the constitutional provision is curtailed by both the Catholic Church and the State.

4.1.3.2 Role of the Catholic Church in Education

Interviewee B contends that parents defer to the church in respect of education matters stemming from a matter of sociology rather than policy:

We are educated people in this country but we do not have the sturdy Catholic vocal articulate people for whatever reason; again it is the subservient, we are always

deferring to the priest. You will find in the media that whenever there is somebody speaking about the position in primary education it is always a clergyman or a bishop who will talk, which I find very strange. Why is it that we do not have Catholic parents who are articulate? (Interviewee B).

Interviewee B asserts that as a result of this subservience, which he traces back to Archbishop John Charles McQuaid, parents did not possess any rights in practical terms. Interviewee A contrasts the practical situation with the constitutional provision, which makes reference to a specific constitutional guarantee with regard to the religious and moral formation of a child in Article 44 in which he says that: 'There is of course recognition of the right of the child to attend the school without receiving religious instruction and that is in 44.2.4'. Similarly, Interviewee C confirms that a parent can legally withdraw their child from religious instruction if they choose to do so. Despite this, Interviewee C states that the Constitution over prioritises religion: 'The language of the document still is quite natural law driven, quite religious driven'.

Interviewee A asserts that the courts have permitted the religious influence to remain. He asserts that the courts have distinguished between religious instruction and the entitlement to withdraw from religious instruction class on one hand and religious education on the other hand which concerns atmosphere or ethos: 'The courts have said that schools may have a distinctive religious ethos' (Interviewee A). Interviewee C asserts that the concept of allowing schools to have a distinctive religious ethos does not necessarily follow on from the language of Article 44 and states that:

From the interpretation of the judges of Article 44 it seems that they are suggesting that the church should be given a significant level of autonomy in the running and management of their affairs; by implication, indirectly, they are giving money to the church to run the schools and not interfering (Interviewee C).

Interviewee B asserts that parents themselves handed over education to the church and believes that the average parent did not have a 'hands on attitude' to education and 'maybe for good reason parents have handed over the whole thing to the church'. However, all three interviewees contend that both the church and parental attitude in this regard are changing 'and what has happened is the way in which parents and church were identified together in the past, that is no longer true or certainly is no longer true of a significant cohort of parents' (Interviewee A).

Interviewee B asserts that the personnel within the church are changing and makes reference to 'extraordinary' statements made by the Archbishop of Dublin, Most Rev. Dr. Diarmuid Martin in this regard whereby he indicated that the Catholic Church may need to divest itself in circumstances where it has a disproportionate patronage of primary schools. Interviewee B highlights the fact that almost ninety five percent of schools in Ireland are under the patronage of Catholic bishops. In this respect, Interviewee B notes that: 'I know that the church is changing and I know for instance that the modern man like Archbishop Martin has very liberal and very sensible views on it'.

Interviewee A asserts that the church communities are also changing. He states that in the last twenty or thirty years the influence of churches in general and the Catholic Church in particular have declined and the decline has been compounded by the various scandals in the church. He contends that the question of the authority of the churches has changed: 'There has been a fall off in religious practice, Ireland is becoming more secular, more liberal; people are more inclined to make up their own minds'. He ascribes this to the fact that parents now are more educated and are more assertive with regard to their rights. He observes that:

There is debate going on about the fact that the churches continue to dominate in education and that other views are not properly heard or represented. In my opinion it would be possible to bring about a change here, if there was sufficient demand to fund schools that were entirely secular and did not accommodate religion in any way, that can be done within the terms of the existing Constitution, if there were sufficient parents seeking it (Interviewee A).

However, Interviewee A tempers this statement by concluding that the State is entitled to insist on the notion of a minimum demand; a term which is given consideration when analysing the role of the State in education.

4.1.4 Role of the State in Education

In considering the role of the State, Interviewee A cites the *O'Shiel v Minister for Education* [1999] 2 ILRM 241 where a group of parents wanted their children to be educated using the Steiner method, and the Department of Education and Science ultimately held that there was not a sufficient minimum demand to warrant the State setting up a special school in this area and the High Court upheld the Department's decision. Interviewee A summarises the constitutional position in this regard:

The State can have regard to resources to a certain extent but if the parents get to a certain critical mass in terms of looking for non-denominational education then constitutionally, the State has to support that. So the Constitution, I think, will give parents significant leverage if the situation continues to develop the way it seems to be developing with parents becoming more vocal and more independent (Interviewee A).

However, Interviewee C does not believe that parents will seek out their rights stating that:

I do not think parents are aware of their rights...I do not think there is enough publicity. I do not think people interact with the legal system unless they absolutely have to. People are only interested in the sensational things about law (Interviewee C).

The case of *O'Shiel v Minister for Education* [1999] 2 ILRM 241, as outlined by Interviewee A, emphasises that 'parents do not have absolute rights' because the State is entitled 'to have regard to what resources are available and what is feasible and what is practicable'. Furthermore, the role of the parent as stated by the Constitution is undermined by the State as a result of the minimum provision clause as summarised by Interviewee A:

Parents are not completely free; if a family decided not to educate their children at all, the State could legitimately insist that the child gets a certain minimum standard of education (Interviewee A).

The constitutional role of the State as outlined by Interviewee A is to provide the minimum standard of education and to step into the breach where parents have been derelict in their duty and have failed to provide the minimum standard of education. 'This arises in the context of the fact that the parents are stated to be the primary educator of their child, the State is given the supportive role but the State is entitled to insist that parents give their children a basic education' (Interviewee A). Interviewee C considers the obligation to be on the courts when the parents are failing to provide the minimum amount of education. He submits that this obligation stems from the constitutional fact that parental rights are inalienable, describing it as 'a right which cannot be transferred or given away' as a result of 'Mr De Valera's Constitution providing not only rights but obligations' (Interviewee C). He further asserts that the State should only intervene in exceptional circumstances 'where there is a reasonable level of evidence to say that the parents have been derelict in their duty' (Interviewee C). In order to assess whether a reasonable level of evidence exists the interviewees consider the meaning of the term 'minimum'.

Interviewee A opines that: 'I think 'minimum' means that by reference to the standards of the day that you get a basic education in line with the school curriculum'. Interviewee C

disagrees with Interviewee A in this regard and contends that the minimum standard should not necessarily be something that mimics the primary school curriculum. Indeed he questions who should have the responsibility of determining what a minimum standard of education is. Furthermore, he states that guaranteeing a minimum amount of education is inadequate and submits that 'a word like minimum is far too impoverished' (Interviewee C).

Interviewee C considers the situation whereby a parent does not have to send their child to primary school as long as they are providing their child with a minimum standard of education. In this context he maintains that the fixing of an age by the State of when a child attends school could be challengeable. He comments that the legal age when a child starts school is 'a rough reckoning which no one has really disagreed with as to when the State institutes a system of formal education' (Interviewee C). However, all of the interviewees conclude that parents have a right not to choose formal education for their child as a result of their constitutional right to educate their child at home, as long as they provide them with a minimum standard of education.

Interviewee A asserts that it is within the context of parents providing a minimum education that gives the State the authority to check the level and standard of home schooling being provided to a child. Interviewee C makes reference in this regard to the State 'policing' and 'rigorously scrutinising' the parental right to educate their children at home, a scrutiny exposed in the case of *DPP v Best* [1998] 2 ILRM 549. He further asserts that the concept of home education stems from 'the natural law driven textual constitutional law focus of the family as a unit of society and that might be questionable today' (Interviewee C).

With regard to the role of the State, all three interviewees conclude that constitutionally the State is very much secondary to the family and the support structure to the family, as summarised by Interviewee A: ‘The Constitution says it is the family who have the primary role and the State was then put in a supportive role’. However, Interviewee C contends that the State should be the dominant stakeholder and considers the constitutional priority given to the family to be ‘an anomaly’ stemming from ‘the nature of Irish society in 1937’.

Interviewee A makes a similar assertion with regard to the role of the State:

The Department of Education and Skills I suppose is in practice the dominant body here. Now it of course works with and liaises with the churches because the churches manage most primary schools, so they have to take the views of the church into account but my guess is that the Department is the key decision maker (Interviewee A).

Interviewee A further makes reference to the practical aspect of the State allocating funding which ultimately ‘determines the rights of parents’. He points out that parents have the option of going to court and highlights the importance of the role undertaken by the courts but labels it as a ‘role in the background’ (Interviewee A).

4.1.5 Role of the Courts in Education

Interviewee A summarises the role of the courts in education matters as one of vindicating the constitutional rights of every citizen and every person who is able to invoke the protection of the Constitution. Furthermore, he highlights that ‘the courts have signalled to the State that there are other things that need to be done according to what is appropriate in so far as resources can permit’ (Interviewee A) and cites the examples of pupil teacher ratios and the conventional school year.

All three interviewees make reference to two High Court cases where the courts vindicated the constitutional rights of children, namely a case taken on behalf of Paul O'Donoghue in the early 1990s who had a severe learning difficulty and a case taken by Kathy Sinnott, on behalf of her son Jamie who suffered from severe autism (*Sinnott v Minister for Education* [2001] 2 IR 545; *O'Donoghue v Minister for Health and Minister for Education* [1993] IEHC 2). In both cases it was argued on behalf of the children that the State was not vindicating their rights under Article 42.4. Interviewee A comments that: 'Educationally we had a good record in respect of children with mild or moderate learning difficulties but as far as children with severe or profound learning difficulties were concerned, they were essentially regarded as incapable of being educated'. He points to the fact that the High Court agreed in both cases, and the Supreme Court in the Sinnott case, that there was more that could be done to vindicate the rights of the children to education; however the Supreme Court stated that the right ended at eighteen years of age. Interviewee C avers that the Supreme Court should not have confined education to the age of eighteen.

In this regard, Interviewee A asserts that: 'We know that primary education is not simply what is provided in the national schools; that is the dominant model and that is what will satisfy the vast majority of children but the constitutional obligation goes beyond that'. Interviewee A further states that the case of *Sinnott v Minister for Education* [2001] 2 IR 545 endorses the fact that our understanding of the concept of primary schooling should not be exhausted by state supplied conventional primary education. Similarly, Interviewee C observes that: 'The education clause is inadequate in the notion that it only stipulates for a minimum standard of education...we need to develop an understanding of what education should be for children'.

Interviewee C believes that the education clause should not be construed or interpreted in a historical context but rather the question of what education means today should be analysed. Interviewee B defines his understanding of the education clause: 'I think that it means that everybody in the State should be entitled to an adequate standard of education, a reasonable standard of education and should, if necessary, be entitled to take action if the State organs are negligent in providing that standard of education'. Having examined the role of the courts, with regard to the vindication of children's rights, the interviewees analysed the role of the Constitution in respect of parental rights.

4.1.6 The Courts and the Constitution

Interviewee A asserts that the rights of parents are adequately protected by the existing text of the Constitution:

Stating that the family is the primary educator of the child, it is difficult to see how that could be improved on in terms of enhancing the rights of the parents. I do not envisage anybody trying to change that text. I would have thought from a parent's perspective, the text is more than adequate' (Interviewee A).

However, Interviewee C considers the Constitution to be too heavily balanced in favour of the family. He submits that differences of opinion exist among the judiciary in this regard:

People differ about this; Hardiman J. and Denham J. in the Supreme Court are very much in favour but other judges including Keane J. or myself would feel that the balance has gone too far in favour of the family. We need a more creative judiciary; the present Supreme Court is not that (Interviewee C).

However, Interviewee A submits that stemming from the judicial duty to uphold the Constitution is the corollary duty to interpret it, thereby creating choices for the judiciary with regard to the weighting given to any particular stakeholder. He highlights the different

ways and approaches taken to interpret the Constitution including historical, literal and harmonious interpretation, which ultimately culminate in judicial activism or judicial restraint, concluding that ‘there is room for choice there on the part of the courts’ (Interviewee A).

Interviewee A’s viewpoint concerning constitutional interpretation clashes with Interviewee C’s who holds that:

The judges are right in saying that they have no choices but to make certain decisions because of the way in which the Constitution is biased in terms of the internal decision making process of the family as a unit (Interviewee C).

While Interviewee C does not consider the Constitution to be structurally lacking he concludes in this regard that the interesting issue is ‘whether the Constitution is adequate to deal with the circumstances of 2009 since it was passed in 1937’. Interviewee C summarises his position in this regard:

The Constitution needs to be textually updated but I do not think it needs to be replaced; there are a lot of noble and fine things in it. If we had a progressive Supreme Court they would be interpreting it in a progressive way; it is a combination that the document has certain things that need to be changed and judges that need to be replaced in certain courts (Interviewee C).

Interviewee A, however, rejects the theory that the education clause in the Constitution should be interpreted in a more progressive way and submits that changes and progression can occur ‘within the terms of the existing Constitution if there were sufficient parents looking for it’.

Interviewee A notes that the State also has an ancillary obligation to vindicate the personal rights of children; however he states that: 'The Constitution sees the child as part of the family so the child's rights will be protected primarily by the family'. Interviewee C contends that traditionally the Supreme Court has been regressive in its protection of rights and in particular children's rights. He asserts that:

The special autonomy and position given to the family in Article 41 meant that the Supreme Court in interpreting this in a succession of cases has bowed, except in exceptional circumstances, to not intervening in the internal decision making process of parents. The downside of that and this is a legitimate cause for concern and perhaps the need for a new amendment, is that if you are bowing to the will of parents and only intervening in exceptional circumstances you are undermining the rights of children (Interviewee C).

Interviewee C cites the example of the case of *North Western Health Board v WH and WC* [2001] 3 IR 635 where the majority of the Supreme Court concluded that they would not intervene to do a pin prick test because they did not want to intervene in the internal decision making process of the family; they would only do so in exceptional circumstances. In this regard, Interviewee C highlights the reference of Hardiman J. and Keane J. to 'governance by social workers' if the courts were to interfere with the family unit. While Interviewee C does not agree with this sentiment, he believes that the Supreme Court could have intervened with the internal decision making process of the family on the basis of the principle that sometimes families need to be supported by the State which in turn has a legitimate interest in the rights of children. As a result Interviewee C concludes that: 'The balance in the Constitution between the rights of parents and the rights of children is far too strongly weighted in favour of the rights of parents as opposed to children...I think children's rights are insufficiently vindicated and therefore parents' rights are over protected'. Interviewee C states that the over prioritisation of parents' rights is a product of the conservative Supreme

Court; however he clarifies his statement: 'In the interest of fairness, the Supreme Court has very little choice because of the way that the Constitution is drafted'.

Interviewee B observes that a conflict exists between child centred parental rights and parent centred parental rights and poses the question: 'Are not all rights therefore essentially rights which are ultimately referable to the welfare of the child?' In this regard, he refers to the welfare principle under Article 3.1 of the United Nations Convention on the Rights of the Child which states that the best interests of the child shall be a primary consideration. He concludes that the All Parties Committees on the Constitution Tenth Progress Report (Government of Ireland, 2006) and their recommendations are not up to the standard of the strength of the formulation of the welfare principle in Article 3.1 of the United Nations Convention on the Rights of the Child. Interviewee C contends that the recommendations should include reference to the equality of rights between parents and children and states that a referendum on the rights of the child is inevitable.

In order to expand on this concept, each of the legal interviewees examine the role of the parent within the context of their position as primary educator as stated by the Constitution. According to Interviewee B, the analysis outlined above pertaining to Article 42.1 of the Constitution cannot be separated from the legislative arm of the process, namely the Education Act, 1998. Interviewee B makes some interesting observations with regard to certain sections of the Education Act, 1998 in the context of the above observations.

4.1.7 Education Act, 1998

Interviewee B refers to Section 14 of the Education Act, 1998 which formalises boards of management:

It shall be the duty of a patron, for the purposes of ensuring that a recognised school is managed in a spirit of partnership, to appoint where practicable a board of management.

He considers the phrase 'where practicable' to be 'curiously worded' in circumstances where it gives a patron, who is most likely to be a bishop, the option not to appoint boards of management. He contrasts the legality and the reality in this regard stating that:

It may well be that in all or most cases that boards of management have been established but nonetheless the Act only requires it to be done 'where practicable' (Interviewee B).

With regard to the structure of boards of management Section 14 dictates that the composition of the board of management is agreed between patrons of schools, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers and the Minister; however Interviewee B considers the prominent person in this regard to be the patron, whom he states is most likely to be a bishop. He further maintains that this section of the act, pertaining to the structure of boards of management should have set out exactly what the composition of the board should be instead of merely stating that the composition of the board should be 'agreed'. Interviewee B considers the wording 'composition which is agreed' to be unsatisfactory as it is unlikely that an agreement will necessarily be reached between parties in the absence of legal authority. To this end Interviewee B cites the Department of Education and Science circular entitled 'Constitution of Boards and Rules of Procedure' which sets out the composition of the board of management for schools having a recognised staff of more than

one teacher (Department of Education and Science, 2007). The board of management in this instance would include two direct nominees of the patron, two parents of children enrolled in the school elected by the general body of parents of children enrolled in the school, the principal teacher of the school, one other teacher on the staff elected by vote of the teaching staff and two extra members proposed by those nominees. Interviewee B considers this composition to be heavily weighted in favour of patrons resulting from the fact that the patron or bishop will have had a direct or indirect influence on the appointment of the Principal and the teachers:

Under Article 42 of the Constitution the family is to be the natural and primary educator of the child and in church social teaching equally the parent is in a very prominent position; it does seem to me that the prominence of the parent is not reflected at all in the composition of the board of management...the overall sense of Section 14 is that the bishop patron is calling the tune (Interviewee B).

In order to investigate this point further Interviewee B considers the arguments with regard to how Section 14 could be litigated:

If I were an objector to the two teachers being members of the board of management how would I argue against that? I would say the two teachers are really in the bishops camp because they will have been appointed by the board of management themselves and as they will have come through the system, they are not really independent as they are part of the establishment. That is the best I could argue. If you were arguing against me you would say there are people on the board of management who are not appointed by the bishop; there are after all some who were elected by parents; it is very mixed up. It is very unsatisfactory; if you argue the two sides of it you will see why it is unsatisfactory (Interviewee B).

In this regard, Interviewee B also makes reference to two further sections of the Education Act, 1998:

The members of a board shall, except where articles of management otherwise provide, be appointed by the patron of the school' (Section 4.4).

The Minister, with the agreement of the patron, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers, shall prescribe matters relating to the appointment of a board (Section 4.6).

With regard to both of these sections Interviewee B comments that ‘the whole emphasis and the whole discretion seems to come back to the patron’.

In order to expand on his commentary pertaining to Section 14 of the Education Act, 1998, Interviewee B cites the case of *Louise O’Keeffe v. Leo Hickey, The Minister for Education and Science, Ireland and the Attorney General* [S.C. No. 174 of 2006]. He asserts that this case concerned a judgment of the Supreme Court of five judges with one dissenter, Mr. Justice Geoghegan. The issue in the case was whether or not Louise O’Keeffe could successfully sue the State for sexual abuse suffered by her in Dunderry National School in Co. Cork; the judiciary determined that she was not entitled to fix the State with vicarious liability for wrong done in her school. Interviewee B highlights the fact that Louise O’Keeffe successfully sued the offending teacher. Interviewee B makes an observation with regard to Mr. Justice Hardiman’s judgment:

Hardiman J. hints that she sued the wrong person; that she should have sued the management, but the management in those far off days before the setting up of boards of management was the clerical manager, a priest, but he was dead (Interviewee B).

Interviewee B further observes that the issue highlighted by Hardiman J. is the basis for the importance of subsection 2 of Section 14 which states that each board of management shall be a body corporate with perpetual succession and power to sue and may be sued in its corporate name. According to Interviewee B, Louise O’Keeffe’s case would be decided differently today because she could have successfully sued the board of management as a body corporate.

Interviewee B provides some further insight into Hardiman J.'s judgment:

There were of course some hints in the judgment of Mr. Justice Hardiman that very vital change to the law on vicarious liability could not be made by courts as it is a matter for legislation. There is nothing to prevent the State in answer to pressure groups, if such there are out there, to make the State the employer. So I think that is ridiculous that the State is not liable; it being involved in every controlling aspect of teachers working life (Interviewee B).

Interviewee B considers the dissenting judgment of Mr. Justice Geoghegan in the Louise O'Keeffe case to be the most accurate, concluding that Geoghegan J. would have held for Louise O'Keeffe against the State in view of the fact that every facet of the national school is controlled by the State. Interviewee B makes reference to the evidence given by Professor Coolahan which is quoted extensively in the judgment of Mr. Justice Geoghegan. Interviewee B intimates the main points made by Professor Coolahan, stating that where parents have complaints, then according to law the complaints should be made to the manager; however, invariably the complaint is made by the parent to the Department of Education and Skills. In this regard, Interviewee B concludes that:

The big argument here was surely the State who pay teachers, recognise teachers or do not recognise them, fix the increments that attach to the possession of certain teaching qualifications, set the curricula, set the school year, the timing, the days off, surely they are the people who are pulling the levers, but the Supreme Court in four out of five judges said no (Interviewee B).

Interviewee B makes a further observation with regard to the Education Act, 1998 and cites the importance of Section 17 of the Act which empowers the patron to dissolve the board of management and provides for dissolution by the patron at the request of the Minister. However, Interviewee B intimates that legally the dissolution does not have to be at the request of the Minister; the patron can do it himself. Interviewee B believes that if a board of management was dissolved the corporate body status of the board would cease to exist; and a

single clerical manager would be in control which was the reason why Louise O’Keeffe could not successfully sue the State.

Interviewee B makes a final observation with regard to Section 26 of the Act which pertains to parents’ associations. He highlights that Section 26 allows for ‘a’ parents association so that a parents’ association can potentially exist for every single recognised school. He further highlights that these parents’ associations are not body corporates with perpetual succession. Interviewee B further maintains that Section 26 presupposes a national parents’ association and that the individual parents’ associations around the country are affiliated to the national one. With respect to the national parents’ association referred to in Section 26 Interviewee B notes that the National Parents Council at that title is not actually mentioned by name in the Act; rather the Act makes reference to ‘a’ national association of parents. In considering the status of the NPC he refers to the NPC website which states that: ‘The NPC has charitable status and is a company limited by guarantee. It has a board of directors and employs a chief executive and staff’. Interviewee B asserts that the NPC has perpetual succession because every company registered has perpetual succession but Section 26 has not directly granted the NPC its corporate status which contrasts with the perpetual succession granted to a board of management under Section 14.

With regard to individual parents’ associations Interviewee B notes that stemming from Section 26 the parents of children in a recognised school ‘may’ establish rather than ‘shall’ establish associations:

It is like *where practicable* in terms of the establishment of boards of management. In each case there is no mandatory provision, either in Section 14 in regard to the boards of management or in Section 26 in regard to the parents’ associations; they may do it, equally they may not do it (Interviewee B).

He notes that if a parents' association is set up it does not have corporate status and he observes that local parents' associations, unlike the NPC, do not register as a company by guarantee.

Finally, Section 26 establishes that the rules of parents' associations shall be 'in accordance with guidelines issued by that national association of parents with the concurrence of the Minister'. In interpreting this wording Interviewee B proposes that if parents constitute themselves into an association and if they are affiliated, bearing in mind that they do not have to be affiliated, then it must operate on the rules which will be in accordance with guidelines issued by that national association of parents with the concurrence of the Minister.

4.2 Analysis of Legal Interviewee Data

This chapter has thus far outlined the comments of the legal interviewees in respect of the hypothesis of this study in a narrative format. The next section of this chapter presents an analysis of the comments made by the interviewees using propositional statements arising from the constant comparative method of the data analysis process.

4.2.1 Article 42.1

There is a consensus among the legal interviewees that while theoretically parents are given the constitutionally based right to be the primary and natural educators of their children by Article 42.1, in practice this is not borne out. It is hugely significant that three senior legal personnel consider the provision of the Constitution relating to education to have been overlooked to date by all partners in the education sector including, and most significantly, parents themselves. However, the legal interviewees attribute this situation to a lack of assertiveness on the part of parents as opposed to an enforcement of will by any of the other

partners in the process. There is legal certainty and consensus among all three legal interviewees that constitutionally the parent is the primary educator and that Article 42.1 could not grant parents any greater security in this regard. However, legally parents are not granted the same status in circumstances where there is no legislative mandatory provision requiring parents to participate in or on either parents' associations or boards of management.

There is variance among the legal interviewees with regard to the philosophy underpinning Article 42.1 of the Constitution. One of the legal interviewees contends that the wording of Article 42.1 is a derivative of natural law while the other two legal interviewees believe that the sentiment of Article 42.1 is an embodiment of the influence of the Catholic Church. While there is dissent among the legal interviewees in respect of the philosophy underpinning Article 42.1 the interviewees all agree that the Irish approach to education reflects the fact that the Constitution in its entirety prioritises the family. It is a constitutional certainty that the family has constitutional primacy over decisions pertaining to education. This is potentially a radical concept considering the prioritisation granted to the State in Europe in 1937; however the interviewees all observe that this prioritisation appears to have been tempered in Ireland by the prevalence of both the State and the Catholic Church in education matters. In practice, the State has subsumed the role of primary educator by liaising historically with the church and providing a system of denominationally controlled schools which the interviewees believe is compatible with the Constitution. Ultimately, the legal interviewees are in agreement that in reality parents have discharged the burden of education to the State, albeit through liaison with the Catholic Church.

4.2.2 Role of the Catholic Church in Education

The role of the Catholic Church became predominant in Irish education as a result of the social and economic phenomenon of the dominance of the Catholic Church, which translated to a system of publicly funded denominational education rather than as a result of state or legal policy according to the legal interviewees. This structure, whereby the Catholic Church embodied a dominant position in education, continues because it was never questioned by parents who failed to canvass support for their constitutional privilege to be upheld, according to collective opinion of the interviewees. Furthermore, the interviewees submit that the decline in the influences of the churches in general and the Catholic Church in particular has resulted in changing roles in the context of the provision of education. The question emerging from analysis of the legal interviewee data is whether the vacuum in education stemming from the declining role of the church will influence the role of parents in education or increase the existing level of state control surrounding the provision of education.

4.2.3 Role of the State in Education

With reference to the role of the State the interviewees contend that while constitutionally parents are given a preference with regard to deciding about the child's education which includes the right to educate at home; the State practically still has a substantial amount of educational control. There is an inherent contradiction in this regard in terms of state policy and the Constitution. While the Constitution guarantees parents the inalienable right to be the primary educator, the State dictates parameters around that right. This conundrum was explored by the interviewees through focusing on the phenomenon of home education and the minimum standard of education.

The interviewees point out that home education stems from the constitutional provision that parents shall be free to provide education in their homes or in private schools or in schools recognised or established by the State. The legal interviewees contend that the rigorous scrutiny of the home education process by the State is illustrated by the minimum standard of education imposed by the State. While there is some minor discrepancy among the interviewees surrounding legal analysis of the word 'minimum', the significant issue which emerges from an analysis of the legal interviewees is that the constitutional article providing for parents to be the primary educators of children is distinguished from the article which provides for a minimum standard of education. It could be deduced that the framers of the Constitution did not dictate any parameters around parental provision of education but rather imposed on the State a duty to ensure that a minimum amount of education would be provided where parents failed to undertake their role as primary educators. This would indicate that the framers of the Constitution only intended the State to uphold a subordinate role in the process of education.

There is a general consensus among the interviewees that the imposition by the State is legally legitimate. Indeed, one of the legal interviewees contends that it could be argued that the right of parents to educate their children at home should approach a new improved standard. Another interviewee questions the legality of the principle of home education. Ultimately, the interviewees assert that the constitutional imposition on the State of the role of providing a minimum standard of education, where the parent has failed to achieve same, bestows on the State a constitutional role to support parents in their role as the primary educator.

According to one of the legal interviewees, the supportive role accorded to the State stems from the wording of the Constitution and the use of the word primary which recognises that there will be other educators besides the primary ones. Indeed, one of the interviewees opines that the Constitution should have afforded the State with the primacy of education. Moreover, the interviewees concur that the State assumes the role of one of the dominant stakeholders and thereby in reality the State assumes more than the constitutionally dictated supportive role, each of them highlighting the State imposed obligation that a child attend formal school. One of the interviewees opines that this edict of the State instituting a system of formal education may not be legally sound and only still exists because it has not been challenged. The question emerges as to why the State purports to assume the role of primary educator and continues to do so with no major discernible challenge from the constitutionally dictated primary educators, namely parents.

4.2.4 Parental Choice

It could be asserted that a cultural identification of the State as the primary educator emerged in the past paralleled by the provision of denominational schools, which were primarily what the vast majority of parents were content with. This translated to a situation whereby parents effectively were exercising their constitutional right to be primary educators by choosing denominational schools. Whether this choice was a deliberate choice or one prescribed by culture, it was still a choice made by parents regarding the education of their children thereby ensuring that they were exercising their right to be primary educators. The significant part of this process was that parents in their capacity as primary educators never demanded alternative choices or a wider choice of schools to which they could delegate their role of primary educator to, according to the interviewees; however they collectively purport that

this situation is changing. Interestingly, the legal interviewees make no reference to the parent led education movements, namely the Educate Together and Gaelscoileanna movements.

The legal interviewees observe that the way in which parents and the Catholic Church were identified together in the past is no longer true of a significant cohort of parents and as a result some parents now are looking for multi-denominational education or secular education. According to one of the legal interviewees state funding of alternative models of schools could be accommodated within the terms of the existing Constitution if there were sufficient parents seeking it. No change to the text of the Constitution would be necessary for state funding of education accommodating alternative viewpoints. From this analysis it is evident that parents have the legal capacity within Article 42.1 to make decisions pertaining to the education of their children and this capacity clearly carries a responsibility on the part of parents.

4.2.5 Parental Responsibility

One of the legal interviewees highlights that the Constitution can accommodate the wishes of groups of parents, who lobby the State to seek to enforce their particular viewpoints, regarding the education of their children. However, while parents do not have absolute rights in this regard and the State is entitled to have regard to what resources are available it is the viewpoint of the legal interviewees that the Constitution allows parents significant leverage if a situation continues to develop whereby parents become more vocal with regard to the exercise of their constitutional role.

Ultimately, the most significant finding from an analysis of the legal interviewee transcripts is that parents are afforded the constitutional right to demand any form of education for their children that they choose and the State has to provide for it. The only safeguard is that a critical mass of parents must demand such an approach to education. However, it is crucially important to note that the concept of a critical mass does not have a constitutional basis but rather has been interpreted by the judiciary as being a safeguard for the State. While the present Supreme Court exercises a conservative approach, the critical mass safeguard ensures that parental demands with respect to education are curtailed. If parents wish to vindicate their right to be primary educators, they must exercise that right through the courts. From an analysis of the legal interviewee transcripts, it appears that the court has ultimately become the chief arbiter in education matters.

4.2.6 Role of the Courts in Education

The stakeholder that is most affected by the dominant role of the courts is the State whose education policies can effectively be determined by the courts. However, the State still retains a dominant position because the conservatism in the Supreme Court indicates that the courts will insist on a critical mass of parents making demands before they will be acceded to. The conservative Supreme Court approach is evident in its historical reliance on the definition within Article 42.1 of both primary education and the family as perceived by the framers of the Constitution in 1937. The outstanding question is whether there would be a watershed in terms of constitutional cases taken against the State if the courts began to interpret the Constitution in a literal way thereby admonishing the concept of a critical mass and prioritising the right of the parent to be the primary educator. According to one of the interviewees, it is likely that the courts would be unwilling to do this as ultimately the

conservatism of the present Supreme Court holds that the protection of certain fundamental rights including education is a function of the Oireachtas and not the courts; thereby indirectly empowering the State over the parent.

According to the legal interviewees, the conservatism of the present Supreme Court further serves to dilute the meaning of education and furthermore results in a situation whereby children's rights are only protected as part of the family unit. One of the interviewees asserts that the judiciary opine that they have no ability to interpret the document in favour of children's rights because of the way in which the Constitution is biased in terms of the internal decision making process of the family as a unit; however the interviewees all purport that a more progressive creative Supreme Court could alleviate the problem. Furthermore, it is the contention of the interviewees that the State could also exercise certain creativity in respect of the avoidance of litigation.

If the State was more forthcoming with educational innovations and updated responses to the needs and demands of parents before they arrived at a critical mass, it appears that their subsumed position of primary educator would rarely be arbitrated before the courts. It is clear that the State must identify, interpret and cater for the changing needs and wants of parents that are emerging with regard to the education of their children. This would serve to negate the emergent imposed arbitration by the courts of Article 42.1 of the Constitution and would ultimately avoid a situation where the courts dictate educational policy.

4.3 Analysis of Legal Interviewees with reference to Chapter One

4.3.1 History of Article 42.1

Prior to the enactment of the Constitution of 1937 a parent by common law was not under a legal duty to educate his or her child (Glendenning, 1999). However, Coolahan (1981) notes that the Constitution introduced a responsibility on parents in terms of educating their children. This concurs with the consensus of the legal interviewees in that the Constitution contains obligations as well as rights. Essentially, the right given to parents under Article 42.1 of the Constitution to be the primary educators is paralleled by a corollary responsibility to execute this right. Since 1937 parents have exercised this right and responsibility, whether directly or indirectly as a result of Irish culture, by delegating to a church-state liaison to fulfil their role of primary educator. This prescription by parents to the Catholic Church and the State was not a new phenomenon as highlighted by Farry (1996), that the right of parents to provide for, and to prescribe the manner of education as well as religious instruction of their children, had been upheld by the courts prior to the enactment of the Constitution in a number of cases on the grounds of public policy. Ultimately, it appears that the Constitution states that parents are the primary educators; however traditionally parents nominated both the State and the church to take charge of the practical functions pertaining to this role. The majority of parents, outside the Educate Together and Gaelscoileanna movements, have never sought to nominate a new body or to transfer the responsibility to another party. As a result of parental lack of assertiveness the State and the Catholic Church have almost subsumed the role of parent to be the primary educator.

The literature and the legal interviewees concur that traditionally parents have exercised their constitutional right to educate through the agency of the State and the churches. However, as detailed by the literature review, this translates to a situation where the State is funding a single type of education which is precisely the type of scenario which Laffoy J. opined would ‘pervert the clear intention of the Constitution’ (*O’Shiel v Minister for Education* [1999] 2 ILRM 241 at page 263). However, evidence emerges in the literature in this area that some parents are seeking alternatives to the traditional denominational schools for their children and that the old model of parents fully supporting the denominational school is coming under challenge; a trend observed by all of the legal interviewees and borne out by the initiation of the Forum on Patronage and Pluralism (Coolahan *et al.*, 2012). The primacy of the role of the parent is further considered by analysing the term ‘inalienable rights’.

4.3.1.1 Article 42.1 and Inalienable Rights

Both Glendenning (1999) and the legal interviewees concur that parents’ rights are given a fundamental status in Article 42 being described as ‘inalienable’ indicating that they can never be totally transferred to the State. A common theme emerges, from both an analysis of the interviewees and the literature, namely that the framers of the Constitution intended that not only have parents alone the right to control the education of their children but that they cannot surrender this right. There is one dissenting voice in this regard, namely Kelly (1967), who contends that it is no added protection to the parents that their rights should be described as inalienable because these rights are not precisely defined. However, reliance on a subjective analysis of the term ‘inalienable’ as advocated by Walsh J. in the case of *G v An Bord Uchtála* [1980] IR 32 could indicate that parents have to transfer some of their role to the State in order to avail of the social institution of the school. Interestingly, Farry (1996)

purports that the term inalienable was first utilised by a statement of the Catholic bishops in 1867, which purported that nature has given parents the right of educating their offspring. Farry's comments concur with the comments of Interviewee C in respect of Article 42.1 being a natural law provision. Interestingly, stemming from the philosophy of natural law, the reference to parents in Article 42.1 is confined to the family based on marriage according to Farry (1996). However, Interviewee A moves beyond an academic analysis of family in Article 42.1 and asserts that the courts are unlikely to constrain an interpretation of this article solely to a family based on marriage. Similarly, the analysis pertaining to the status of the Constitution by the legal interviewees moves beyond an academic analysis.

4.3.2 The Constitution of Ireland, Bunreacht na hÉireann

With regard to the status of the Constitution the legal interviewees and the legal commentators discussed in the literature review all indicate that it has a higher legal status than other laws and furthermore that the answers to questions emerging from the text of the Constitution are rarely clear. An analysis of the literature in chapter one exposes the fact that the role of the Constitution is to lay down general principles and the Supreme Court is the ultimate interpreter of these legal principles. Interviewee C purports that a conservative Supreme Court curtails the way in which education cases pertaining to Article 42.1 are decided. However, the literature provides a different insight and purports that the Supreme Court is not the exclusive interpreter; the executive and legislative branches of government, in the performance of its assigned constitutional and legal duties, must initially interpret the Constitution and the laws. This would seem to suggest that the courts are not the chief arbiters of the Constitution but that the State, through the government, exercises the role of chief interpreter of the Constitution. However, the executive branch of the State is unlikely

to undertake this role as the judiciary, exemplified by both Hardiman J. and Keane J., warned against this process defining it as ‘governance by social workers’ (*North Western Health Board v WH and WC* [2001] 3 IR 635). It emerges from a strict analysis of the literature and the legal interview transcripts that the Constitution commits to the judges the ultimate guardianship of the Constitution, and the vindication of all the rights that it guarantees or that it confers. That fact is borne out definitively by the doctrine of constitutional interpretation.

4.3.3 Constitutional Interpretation

There is a contradiction exposed between the legal interviewees and the literature review in respect of constitutional interpretation. Kelly (1967) asserts that as the judiciary become more accustomed to interpreting the Articles of the Constitution, interesting developments will occur in branches of the law concerning education. However, Interviewee C purports that growth in respect of education cases has been stunted by the conservatism which currently reigns in the present Supreme Court in the form of an over reliance on the historical approach.

Interviewee C is particularly adamant about the issue of conservatism in the Supreme Court in respect of a potential referendum on the rights of the child and the principle that a progressive Supreme Court could negate the need for a referendum. O’Mahoney (2006, p. 34) is an advocate of the same principle stating that judicial statements, which resist the historical approach are ‘enormously significant statements which give licence to a forward-thinking Supreme Court to rectify some of the restrictive interpretations of the education provisions which have been handed down by the courts without any need for recourse to the

difficult and drawn-out process of a constitutional amendment'. As a result of the lack of progressive thinking in the Supreme Court, according to the legal interviewees, a referendum on the rights of the child is inevitable. A review of the literature pertaining to constitutional interpretation suggests that the use of the harmonious approach to constitutional interpretation has the benefit of avoiding strict constructivism and literalism as outlined by the Supreme Court; this concurs with the sentiment of the legal interviewees in this regard and would potentially increase the power of the courts with regard to education.

4.3.4 Role of the Courts in Education

An area of commonality between the legal interviewees and the literature review is that both sources submit that the Supreme Court is the chief arbiter in finding an equitable equilibrium between the various stakeholders in primary education. While the Irish courts have acknowledged the rights of the various stakeholders in the process of education, they have traditionally upheld the primacy of parental choice in primary education. It is a presumption that where the constitutional family exists and is discharging its functions as such and the parents have not for physical or moral reasons failed in their duty towards their children, their decisions should not be overridden by the State or in particular by the courts in the absence of a jurisdiction conferred by statute (Glendenning and Binchy, 2005). Unlike the State and parents, the churches are not given any direct constitutional right.

4.3.5 Role of the Catholic Church in Education

The Catholic Church is not given any rights under Article 42.1; however the provision cannot be read in isolation from Article 44 which supports the position of the religious

denominations in education according to Glendenning (1999). Interviewee C supports this viewpoint purporting that the language of the Constitution is quite religious driven. However, the other two legal interviewees disagree with this stance highlighting the fact that parents can withdraw their children from religious class and contend that it is the courts that have actually permitted the religious influence to remain in schools by permitting schools to espouse a religious ethos.

A further emergent theme in both the interviewee transcripts and the literature exposes the utilitarian link between the Catholic Church and the State in terms of education resources and power:

The British government initially were very glad to avail of the management skills such as they were of parish priests around the country and they were getting them as far as I am aware for nothing. So it was a cheap management system and the British were very glad to offload it to the church that, in turn, was very happy to accept it for the purposes of power (Interviewee B).

Many benefits accrued to Irish society during the years when the State was grossly under resourced and relied heavily on church participation in education (Glendenning, 1999, p. 107).

Glendenning (1999) further notes that with the advent of a more prosperous society has come a more assertive state role in education which in turn implies greater state responsibility for education.

4.3.6 Role of the State in Education

Both the literature review and the legal interviewees aver that the State's role with regard to education is embodied in Article 42.5 and is a subsidiary role unless the common good of children is under threat. However, the legal interviewees point out that for practical reasons,

parents exercise their right as primary educators by delegating the education of their children to the State. The literature attaches a legal basis to this concept as determined by Harris (1992, p. 62): 'The distribution of legal responsibility for the education of children is such that parents have, in effect, a duty to send their children to school, and the State has a duty to educate them when they get there'. However, one of the legal interviewees disagrees with the sentiment of Harris (1992) and points out that the duty to send children to school is not a legal duty and the current structure whereby parents send their children to school aged four could be successfully legally challenged. The legal interviewees purport that the concept of children receiving their education at school is a practical phenomenon rather than a legal one. The literature also proposes that in practical terms the school becomes a necessary social institution to educate children and the resulting consequence of this is that the State and school management authorities ensure that qualified teachers are appointed to educate the children and provides salaries for teachers who are 'parent substitutes' (Adams, 1993) and 'parental delegates' (Glendenning, 1999). This concurs with the observation of Interviewee B, which notes that the Constitution provides no recognition to teachers directly with regard to education. Through delegation to the State and indirectly to teachers paid by the State parents are exercising their responsibility as primary educators.

4.3.7 Parental Responsibility

A review of the literature exposes a disharmony between individual parental choice and the collectivist focus of the State, a process which is equally constraining on both the State and parents. A theme emerges in the literature whereby commentators perceive the constitutional provision of parental primacy to resist state orthodoxy in education. Indeed a converse concept arising from a review of the literature is that Article 42, with its emphasis on the

doctrine of parental autonomy, has indirectly consolidated the power of the churches within the educational system. However, both of these concepts contrast sharply with the opinion of the legal interviewees, which collectively observe that parental responsibility simply stems from an exercise of their constitutional position as primary educator and that the State or church does not seek to impose an educational focus but rather respond to the delegation driven by parents.

Furthermore, the literature proposes that the position of parent as primary educator means that prescriptive imposition of state educational policies, without primacy afforded to parents, through legislation is not generally available to the State. This sharply contrasts with the viewpoint of Interviewee B who cites the Education Act, 1998 to highlight the fact that there is no legislative mandatory provision requiring parents to act as primary educators through membership of either parents association or boards of management. It appears that the difference between the literature and the legal interviewees exists in respect of a perception of how the role of primary educator should outwardly be fulfilled by parents. With regard to the legal interviewees they perceive parents to exercise their primary role through a decision to delegate to the State whereas scholars in the literature review question whether or not parents are the primary educators because the State effectively appears to be the dominant stakeholder.

The literature review espouses a theme whereby state education policy is curtailed by the constitutional feature of the rights of parents; however according to the legal interviewees state policy simply responds to a situation whereby parents are exercising their role as primary educators by choosing to delegate the practical nature of this role to the State. In this

regard, the literature suggests that for many years schools and teachers have bluffed parents over their rights (Adams, 1983). However, the legal interviewees collectively contend that parents themselves have not asserted their rights in this regard by not exercising their responsibility. Whichever technical argument is correct in answering the question of why parents' rights have not been practically asserted, the commonality between the literature and the legal interviewees in this regard is best summarised by Glendenning (1999, p.68) who states that parents are merely 'theoretically at the apex of the pyramidal constitutional structure supporting education'. Through an analysis of the literature review, a theme can be observed whereby legal commentators believe that the subordinate position of parents can be perceived as meaning that educational policy and practice have diverged from the constitutional plan for education as envisaged. However, the legal interviewees opinion starkly differs in this regard and they hold that the constitutional plan that parents would be primary educators is still firmly in place; it only appears to have transferred to the State as a result of the fact that a critical mass of parents have not sought to assert any new choices with regard to education.

4.3.8 Parental Choice

Both the legal interviewees and the literature review determine, with regard to the position of the parent as primary educator, that theoretically parents are given with the constitutional right from the State to educate their child according to their own choice of method arising from Articles 42.2 and 42.3.1, which prohibit the State from designating any particular type of education or venue for education. However, Farry (1996) and O'Mahoney (2006) both agree that it is entirely impractical to guarantee parents an absolute right to choose the school that their children are to attend. This sentiment concurs with Article 2 Protocol 1 of the

ECHR. Indeed, the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector (2012) affirms that there is no absolute right to a school of one's choice (Coolahan *et al.*, 2012). This sentiment is shared by all of the legal interviewees; however they take the argument further by opining that if a critical mass of parents demanded a particular type of education, there is a constitutional obligation on the State to make that provision. Clarke (1984, p. 201) summarises an evident theme in the literature: 'Freedom of educational choice for parents is only a charade if it means freedom to choose between a limited number of religious schools'. However, the legal interviewees perceive the situation differently and contend that state funding of alternative models of schools could be accommodated within the terms of the existing Constitution, if there were sufficient parents looking for it. No change to the text of the Constitution would be necessary for state funding paralleling this viewpoint. Interestingly, legislation which provides for the funding of schools by the State, such as the Education Act, 1998, may not discriminate between denominationally managed schools. This concept was endorsed by the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector (2012) in highlighting that the need to divest schools may become 'a legal necessity' in order to negate a potential discrimination by the State in favour of denominational schools (Coolahan *et al.*, 2012, p. 3). The attendance at either denominational schools or non-denominational schools is a choice, which the courts deem to be for parents to make on behalf of their children according to both the legal interviewees and the literature review; however this is subject to a particular minimum standard of education.

4.3.9 Minimum Standard of Education

A definition of what a minimum standard of education entails and indirectly therefore what home education entails has not been dictated by the Constitution or by legislation according

to an analysis of the legal interviewees and literature pertaining to this area. It is clear from a review of the literature in this area that the State discharges its constitutional duty to provide a minimum standard of education by imposing a minimum age at which children must attend school; a concept that one of the legal interviewees considers legally unsound. Arguably, the concept of minimum standard could be attributed to what the minimum amount of involvement of parents in their child's education should be in order for it to correlate with the concept of being a primary educator.

4.3.10 Practicalities pertaining to the Primacy of Parents

A review of the literature pertaining to this area raises a question in relation to a perception of whether a strict analysis of the role of parents as primary educators leads to a situation whereby parents should have a practical involvement and be responsible for the design of the curriculum in schools. The legal interviewees provided no input in this regard and appear to view the delegation of education from parent to the State as a conclusive process rather than a continuum as perceived by scholarship in the area. Furthermore, the literature suggests that parental delegation to the State is not an absolute delegation of their duty and that the parental right to be primary educator extends after the act of delegation occurs. This is manifested by their expectations with regard to school administration.

4.3.11 Parental Involvement in School Administration

The sentiment in the literature with regard to parental involvement in school administration is summarised by Glendenning (1999) who points out that the constitutional doctrine of parental primacy does not translate into parental involvement in school administration. However, the

legal interviewees make no connection between the role of the family as primary educators and the role of primary school administrators. It appears that in today's society of accountability, various commentators are linking or attempting to link the role of the parent as the primary educator with an equally primary role of school administrator. However, the legal interviewees focus on the legislative backdrop to determine whether or not parents are actively primary educators. In this regard, it appears that the role of the parent to be the primary educator does not have a legislative backing despite its constitutional status.

4.3.12 Education Act, 1998

The Education Act, 1998 bestows the statutory responsibility for the education of the child on the Minister and contradicts somewhat the parental responsibility under the Constitution. Despite this, an outstanding feature in the literature in this regard is that the position of parents has been strengthened by the changes brought about in the Education Act, 1998. However, one of the legal interviewees opines that the lack of a mandatory legislative provision requiring parents to participate on either boards of management or parents' associations serves to weaken the practical participation of parents in the education process notwithstanding that their constitutional position prevails. This is further exemplified by the Teaching Council Act, 2001 which provides for only two parental nominees out of thirty seven members.

4.3.13 Conclusion

This chapter presented an overview and analysis of the expert legal opinions together with a comparison of the themes emerging from chapter one pertaining to the hypothesis of this

study. The consensus of the legal interviewees affirms the hypothesis that parents are not recognised as the primary educators of their children as stated by the Constitution of Ireland. The three expert legal opinions can be summarised by Interviewee C:

Despite the parent in the Constitution being the prominent person, the natural primary educator in state law and the Constitution and as a parallel also in church social teaching the parent does not come through in this country.

The lack of recognition of the parent as the primary educator, according to the legal interviewees, stems from the Catholic Church, the State and most significantly from parents themselves. This is a radical finding considering that all three legal interviewees assert that the right of the parent to be the primary educator is enshrined in the Constitution. It emerges from the interviews that a historical cultural phenomenon developed in Ireland whereby parents delegated their right to be primary educators to the State and indirectly to the church by sending their children to denominational primary schools. It further emerges that the State structure of provision of education has absolutely no constitutional basis or backing save to support parents in their role by providing a minimum standard of education and continues to exist only in the absence of challenge from parents. It is absolutely clear that the right of parents to be primary educators is fundamentally protected within the ambit of Article 42.1 of the Constitution. It is a legal certainty that if a critical mass of parents demanded a particular type of education there is a constitutional obligation on the State to make that provision. This is an interesting finding considering the observations of the interviewees that parents are becoming more aware of their rights. The emerging difficulty with this process is that the courts become adjudicators as to whether the demands of parents should be met and this poses questions as to who is ultimately controlling education and most significantly how the rights of the child are being protected. It is observed that if the State, which appears to be in control of education, were to command initiative and leadership with regard to the needs and

demands of parents and provide a level of provision of same, the situation could be avoided whereby the courts emerge as the chief arbiter of educational matters.

CHAPTER 5: EDUCATIONAL ANALYSIS

5.0 Introduction

This chapter presents the findings stemming from the education interviewees together with an analysis of the findings. The data is initially presented under themes (Appendix 30), in accordance with the constant comparative method of data analysis in order to aid the narrative of the comments of the education interviewees. The emergent themes contain a presentation of the opinions of the education interviewees together with commentary and observations of the researcher. The themes are then collectively analysed in accordance with the constant comparative method and propositional statements are exposed. To further the analysis, reference is made to chapters one and two, which contain the corresponding literature review and thereby an analysis is made between the literature and the transcripts of the education interviewees.

5.1 Presentation of Educational Interviewee Data

5.1.1 Primary and Natural Educators

The education interviewees derive the role of parents in education from the Constitution and use the language of Article 42.1 to formulate their perception in this regard:

Parents are the primary educators of their children; first and foremost the rights lie with them (Interviewee 5).

Under the law and under the Constitution parents are the primary educators of their children (Interviewee 1).

The Constitution says that parents are the primary educators; so their role is quite obvious from that (Interviewee 9).

I am very much aware that parents are the primary educators of children; I think that is as it should be (Interviewee 10).

Parents are the primary educators and they have the right to be the main educators (Interviewee 7).

A further observation with regard to the above viewpoints is the use of the language of doubt in respect of the constitutional provision utilised by some of the interviewees:

I cannot quote Bunreacht na hÉireann but the rights of parents are very much enshrined in that and in the Education Act of 1998; parents definitely have a statutory role (Interviewee 4).

The role of parents in their children's education is very clear from the Constitution; I mean *I think* they are recognised as the primary educator (Interviewee 2).

I suppose the Constitution says that parents are the primary educators of their children (Interviewee 11).

The interviewees also use the language of Article 42.1 to define the term 'natural educator'.

5.1.1.2 Natural Educator

The interviewees make submissions in respect of an explanation for the term 'natural educator':

I suppose one of the things that we will all have to actually recognise is that children spend eighty five per cent of their waking life, from when they are born to fifteen, at home and in the community. So parents, as the primary educators, actually have their children for significantly longer than the school (Interviewee 11).

Parents' role is very important in the creative years before they come to school because a lot of the stimulation has happened by then or has not happened (Interviewee 7).

Parents are the natural educators in that they educate their children for the first four or five years before they start school, but once the children are in the education system parents are in the background (Interviewee 9).

Education is obviously about more than school; whatever happens in the school day happens in the school day but it is influenced by everything else. Children's learning and development and how they grow into adults is all about the society they grow up in, the home they grow up in and the closest influences in that educational environment would have to be the children's parents and their families (Interviewee 1).

If you were going to close a school or take the child away from their parents, it would be more traumatic for the child if they were taken away from their parents (Interviewee 3).

Similar submissions are made in respect of the term 'primary educator'.

5.1.1.3 Primary Educator

The interviewees present a variety of hypotheses with regard to how the term 'primary educator' should be interpreted:

In the context of parents as the primary educators of their children, I would say that probably what that means is that they have a significant role in staying close to their children's education inside school and outside school from when they are born to adulthood (Interviewee 11).

The parental role is one of primary carer; the first parent and the person who has so much to contribute to the whole education process (Interviewee 10).

Primary is absolutely the first educator; parents are the primary force in the influences and the informal education of their children whereas what happens formally then is in the school (Interviewee 1).

In my mind the term 'primary educator' means the first and most important educator (Interviewee 9).

Primary educator really means that parents or guardians are looking out for the welfare of their children; welfare including their education, their medical, and their social, all of that (Interviewee 6).

The easiest way to understand the term 'primary educator' is to contrast it with a system, like for example the French system whereby the State will impose a certain type of education on its citizens; whereas Ireland has a very different Constitution whereby it gives parents the right to choose what type of education they want for their child. It gives them a role in the running of schools and a voice in the construction of the school curriculum that other societies would not allow; it is probably uniquely Irish (Interviewee 5).

The curriculum acknowledges the central role of parents and refers to them as the child's primary educator. It is on page twenty nine of the curriculum; it says that 'the life of the home is the most potent factor in his or her development during the primary school years' and it refers to the continuing interaction between parents and children (Interviewee 10).

I understand that the parents' rights, parents' role, parents' opinions, the parents' choices in education should be primary; that constitutional provision (Article 42.1) essentially underpins parental demands of the State to respond to parental choice in Irish education and parental rights to equality and provision in Irish education; so that is how I would understand that particular constitutional provision (Article 42.1) (Interviewee 8).

Many of the comments in respect of the term 'primary and natural educator' are suggestive of the derivation of a choice for parents in respect of how their child's education is to be determined. However, Interviewee 2 proposes that the State imposes the choice in the form of a school system and, furthermore, the State 'has decided what flows from Article 42.1':

The State legally recognises that parents are the primary educators and what has developed is a whole system of education that is there to support parents in educating their children. I suppose on the ground it means that for the vast majority of parents, being one myself, there is a school system available from a particular age to another age that supports you in educating your children (Interviewee 2).

Interviewee 4 surmises that the State's exercise of a school system in respect of Article 42.1 complements the social and economic societal lifestyle of parents:

I suppose for economic purposes as well, both parents usually have to go out to work now, so there is a pattern there; parents go to work, children go to school (Interviewee 4).

Further comments by interviewees determine that the role of the parent as primary educator diminishes after children engage in the process of formal state education:

It is a cliché, but parents are the primary educators, because from the time the child is conceived, the child is experiencing development in the womb, and then from birth

until the time the child goes to school, parents are really the main educators (Interviewee 4).

Obviously before school the parent does everything; you teach them to walk, you teach them to talk. That is the first learning the child does and it is all the responsibility of the parent (Interviewee 3).

The parents do everything at the start; then they retreat to a situation where, as the child gets older, the parents may see their role diminishing (Interviewee 1).

The comments of the interviewees with regard to the diminishing role of the parent as the primary educator parallels with a theory proposed by some of the interviewees in respect of the principle of the parent as the primary educator operating at different levels:

I suppose the Constitution says that parents are the primary educators of their children; I suppose in that context I would see the roles of parents at a number of different levels. Obviously they support their own child in the context of their own child's learning, but in the context of the school, I suppose, traditionally that would have been to support the school in the context of fundraising and other matters like that. In more recent years there has been a more focused intervention of parents. At a more global level, parents have had representation on a lot of the main consultative bodies such as the NPC and NCCA. Also then at a global level, in the context of parental involvement, they are involved currently in the whole school evaluation process because they are an integral part of that process and the Inspectorate would speak to parents in relation to their perceptions of how the school is actually working (Interviewee 11).

Parents have a very important role; first of all they are really the primary educators under the Constitution, but as well as that they would be very involved in their children's education rights from the day that they come to school. Even when they enrol, because they would be interested in the curriculum areas; they would be fully conversant with the child's life at school (Interviewee 6).

It can be understood from the comments of Interviewee 6 that the parental role of primary educator can be executed by being interested in a child's education; a situation paralleled by Interviewee 11's comments that the role can be executed by 'staying close' to a child's education; both examples implicating a situation whereby parents are indeed undertaking a

secondary role rather than a primary role. A further example of this secondary role in the form of withdrawal from class is evident from the comments below:

Individual parents withdraw children from the Stay Safe programme in recognition of the fact that they are the primary educator (Interviewee 2).

However, the withdrawal of children from the Stay Safe programme may be for religious reasons or for fear of exposure to unwelcome facts; it is difficult to correlate the purported withdrawal with a conscious realisation of the right to be primary educator. The concept of withdrawal is further embodied by using the exemplar of withdrawal from religious instruction, notwithstanding whether interviewees are in favour of it or not:

Children are not forced to participate in religious instruction; that has always been the case that parents can withdraw their children; that is in the Constitution (Interviewee 6).

Parents have the right to remove a child from a religion class if they so particularly wish (Interviewee 7).

Certainly to my mind there is a very clear contradiction in the constitutional provision under Article 44, the protection of religious bodies, and the statements about the parent being the prime influence in a child's education (Interviewee 8).

It is interesting that the Constitution expressly entitles parents to withdraw children from religious class, notwithstanding that they are the primary educators. Interestingly, this does not correlate with the compulsory premise of the Irish language:

Take the example of compulsory Irish; the very word 'compulsory' is suggestive of a denial of parental rights. The necessity for parents to pursue the possibility of exemptions in Irish again suggests the denial of parental rights (Interviewee 7).

However, in terms of the effects of withdrawal on the secondary position of parents in the education process, it is submitted by some interviewees that it is perhaps fundamental to the

efficient running of a school system that parents assume this secondary role; a theory which is explored by considering the comments of the education interviewees in respect of whether determination of policy allows for parents to play the primary role:

In terms of parents' role being enshrined in policy and in legislation, I am not sure if that is happening (Interviewee 10).

However, Interviewee 1 presents an opposing viewpoint in this regard:

I think from a current policy perspective the role of parents is accommodated; I think it is on a practical level that the operation of the parental role is something that still needs to be worked on (Interviewee 1).

Interviewee 3 contends that parents themselves negate the possibility of inclusion in policy and legislation:

Most parents just want what is best for their child today, tomorrow, next week; that is what parents want. So the notion that parents would be sitting and thinking about their constitutional right to be the primary educator is just not on people's agenda (Interviewee 3).

The comments of Interviewee 3 in this regard are further explored by focusing on parents' rights and their awareness of them.

5.1.2 Parents' Rights

The interviewees purport what they consider the rights of parents to entail, with many offering practical examples:

Parents have the right to an education for their children notwithstanding the fact that they are the primary educators (Interviewee 1).

Parents have a right to be involved; that they have a right to question, they have a right to contribute and they have a right to share their knowledge (Interviewee 4).

Parents have the right to be heard in relation to the education of their children, to be listened to by their children's schools and teachers, to be consulted in relation to their children's education and to have updated and regular reports in relation to how their child is progressing or not (Interviewee 5).

At school level parents have a right to be informed; they should know about the progress of their children, they should know about the outcomes of standardised tests and where decisions are being made about their children they should be informed (Interviewee 1).

Parents have a right to information on how their children are doing at school academically. They also have a right to be kept informed should there be any issues that would arise relating to discipline; they also would have a right to know if their child was failing or not, achieving their potential and they have a right to be listened to, to be heard. They also have a right to know how their child is doing on standardised tests in relation to the rest of the children nationally and that is very important (Interviewee 6).

However, Interviewee 7 presents a different understanding of the use of standardising testing as being a means of communication with parents:

Information on standardised tests is not necessarily transferred to parents; some teachers may see the standardised results as the property of the school and not for parental perusal. In any event, the lack of context to the testing results ensures that parents are not being afforded the relevant information in this regard (Interviewee 7).

Interestingly, parental rights, according to the language used by the interviewees, include the right to receive information and progress reports pertaining to their children's education which effectively deems them to traverse a secondary role rather than a primary role. This concept is consolidated within the legislative sphere, as stated by Interviewee 10:

The Education Act has a lovely phrase; it requires that parents receive regular periodic information about their children's progress in school; I think we are still at a very early stage in understanding how best to do this (Interviewee 10).

The opinion of Interviewee 10 with regard to the infancy of the process of parental involvement is indirectly highlighted by Interviewee 6, as a result of the insightful language used in relation to the process of working with parents:

It is important that parents would realise that they have to make appointments, they cannot barge in, it is two-way and it needs to be at a mutually convenient time; that if you want to discuss your child and talk about the education of your child you need time to do that (Interviewee 6).

The examples of parental rights proffered by the interviewees collectively present a situation where parental rights centre primarily on the right to be involved and the right to receive information; both of which are arguably secondary rights and are juxtaposed against their constitutional position. In this regard, Interviewee 1 notes that:

Parents have very clear rights in law and under the Constitution, so that is not an issue, what may be an issue is the extent to which they can exercise them in the system as it is currently set up (Interviewee 1).

It appears from the interviewee transcripts that the current culture in the system developed as a result of a lack of parental awareness of their rights. This concept is clearly espoused through an analysis of two conflicting quotes from the transcript of Interviewee 4:

I would have to say as a parent myself I have never sat down and looked at my legal rights, so, speaking personally, I suppose we are not fully aware of our legal rights (Interviewee 4).

As a parent myself and with all the parents I have dealt with in school, and friends and relations and so on who are parents, I have no experience of anybody having their rights, for want of a better word, denied to them in relation to their children and education (Interviewee 4).

Interestingly, Interviewee 4 is indicating a lack of awareness of legal rights and yet can positively determine a lack of awareness of rights being denied. Interviewee 5 exposes an example of where parents have been aware of the denial of their rights:

You saw the agitation of parents recently against the cuts in disadvantage and I think that was very significant; you will see the same in rural Ireland when the Minister tries to impose conditions on small schools which will probably lead to closures and amalgamations, and parental rights will be asserted there. By and large I think parents are generally happy; therefore they are not as vocalised and organised as they could be (Interviewee 5).

Similarly, Interviewee 1 asserts that:

Broadly parents are aware of what their role is and what it should be; they often do not take it up (Interviewee 1).

Interviewee 5 expands on the concept of parental assertiveness and highlights the NPC as a 'method of organisation' of parents, notwithstanding that it is 'underutilised':

I do not think parents identify with the NPC like they do with other organisations, maybe even political parties; it is not high on their list of priorities but that is because the service in relation to their own particular child is satisfactory. The NPC has done a good job over the years of articulating parents' rights, of ensuring that they would be consulted in many areas of school life, I think they have gone far beyond what the ordinary foot-soldier parent would want (Interviewee 5).

In respect of the NPC Interviewee 1 poses the following question:

To what extent are organisations like the NPC and parents committees in schools representative of the broad spectrum of parents? (Interviewee 1)

The reliance on the NPC to assert parental rights corresponds with a perception among interviewees that parents lack awareness in respect of their rights:

I suppose information pertaining to parental rights is all targeted at parents who have a certain level of literacy and I think that research is telling us that many parents

struggle with their own levels of literacy and then with their communication levels as well (Interviewee 10).

I think some parents would be very unaware of their rights as the primary educator; you know because there is an educational system in place (Interviewee 2).

I think it is thematic; I think parents would be aware of their right if they have a child with special needs (Interviewee 11).

It is significant that parents of children with special needs are cited by Interviewee 11 as being aware of their rights as this has been borne out by an analysis of case law. It would appear that parents of special needs children are aware that they have some rights, without necessarily formalising the nature or extent of those rights. The interviewees cite reasons why the majority of parents remain unaware of their legal rights:

I would concur with UCC research that parents' awareness of their rights probably does tend to manifest on class lines; middle class parents, of course, would tend to be more informed about their rights (Interviewee 10).

Maybe it is because of the way parents have experienced schooling themselves that they do not have a thorough knowledge of what is going on or maybe they have not informed themselves (Interviewee 6).

There is a trend across the education interviewee transcripts determining that parents do not have the necessary skills or knowledge to execute their constitutional role as primary educator:

Parents may not have the skills and the knowledge to actually be the primary educators; they start off in the home teaching children the basics, but it is like everything; you need help and support and if you do not have the knowledge to get all the information that your child needs to progress through life well then you need schools or home tutors (Interviewee 6).

Parents do not have the confidence to be primary educators; they would feel they do not have the educational background themselves or that they do not have the time (Interviewee 3).

Some of the interviewees propose that parental education programmes could provide a means to address the purported lack of parental ability:

I think parents should be up-skilling themselves all the time in social skills, communicative skills, dealing with people, dealing with conflict and parenting skills (Interviewee 6).

We have had parenting programmes for a long time in this country but usually they would be parenting programmes, helping parents maybe to deal with behavioural problems or teenagers. We have had parenting programmes for the sacraments in Catholic schools. I am not sure that we have had programmes yet on educating parents in partnership, per se (Interviewee 4).

With regard to the awareness level of parents in respect of their rights, notwithstanding their level of education, the interviewees consider parental awareness of legal rights to be increasing:

I think perhaps there is a group of parents that are becoming much more articulate and much more knowledgeable about their rights (Interviewee 2).

I am thinking of the case in Tralee where parents took the Department to court on this issue of immersion in education and the entitlement of their children in Junior Infants to have a modicum of English which the Gaelscoil was not providing at the time. I suppose it does show that parents are becoming increasingly aware (Interviewee 10).

We are all more aware of our rights and people are more vocal; they are more assertive; they are definitely more aware. Parents see their role as being more participatory than it used be (Interviewee 4).

I suppose a lot of parents are becoming aware; I suppose because more information and knowledge became available to parents and maybe information is out there in the public domain and parents' rights are talked about a lot more I think since the Education Act came in 1998 (Interviewee 6).

Parents now see that they have a voice; they will be listened to. I do not think that we, as a society, see education as just a consumer service; I think it is seen as something that parents can have an input into. They just do not hand over their child and the school, as provider of the service, does everything; it is a two-way street (Interviewee 5).

I think parents are certainly more aware now than they were years ago but I think a lot depends too on the socio-economic factors. Sometimes people are struggling with

difficult economic circumstances and maybe dysfunctional homes and they would be unaware of their rights, but at the same time it is amazing how well educated the general masses are, through television programmes in particular (Interviewee 7).

The interviewees correlate parental awareness of rights with a purported culture traversing society which seeks accountability.

5.1.2.1 Culture of Accountability

The interviewees concur that the increase in parental awareness of their rights stems from a societal shift in seeking transparency and accountability rather than an arbitrary analysis of parents in respect of their rights:

I do think that there is a greater break down of barriers in society and between people and figures of authority. In every walk of life now though, professional and otherwise, people query and question. I think we are all in that mode now of not taking things for granted and just double checking in advance (Interviewee 4).

I mean if you asked me the difference between 1992 and now, there has been a sea change in terms of how authority is viewed. All of the institutions and the organisations that were on pedestals twenty five years; they are no longer there. I think people are much more questioning. There is a much greater flow of information; we have a much more transparent society, but I think there has been a cultural sea change (Interviewee 2).

I think if parents are unhappy, the vast majority now know that there is a complaints procedure and that there are ways of resolving conflict; the last generation of parents just tolerated it. Actually, it was the same in restaurants, there was a culture there where we as a society just did not complain, but we have changed (Interviewee 5).

No more than twenty five years ago there was a different cultural view of the role and rights of parents, regardless of what it might have said in the Constitution. There was a physical wall around schools and the only times parents breached that wall was when they were called in to be reprimanded about the behaviour of their children; they were not involved in governance, there was no level of transparency or accountability. That is not the case today and parents, if they have a difficulty with what is happening in schools, are much more likely to approach schools and do something about it than they were. The constitutional position did not change about

parents' role as primary educators of their children in the last twenty five years; that has been a cultural shift really as a society (Interviewee 2).

That demand of parents to seek out their rights is coming chiefly as a result of the democratisation of society and the changing expectations of an increasing majority in society; they no longer see themselves in a subordinate role to social authority and more and more are participants and active owners of decision making processes. You see this not just in education but you see this in companies, in society in general (Interviewee 8).

It has become a natural expectation that parents should be consulted about decisions relating to their children's education and also the natural expectation that they should be consulted in the way in which schools and other social structures operate (Interviewee 8).

The emergent theme in respect of a societal culture of accountability transcending parental demands in respect of legal rights with regard to education is clear from the transcripts. However, the interesting emerging sentiment pertains to the expectation levels of the education interviewees with regard to their perception of the practical implication of how an increasing level of awareness among parents of their rights affects the school system. Despite the fact that an awareness of legal rights is apparent, a secondary role with regard to the assertion of these rights is manifestly evident to be the expectation level of the interviewees. Only one interviewee appears to perceive parental rights to be absolute, however they are still tempered by a corollary responsibility, one which, if not carried out, attracts state intervention for the purpose of child protection:

I see the rights of parents as being absolutely supreme. Having said that, as a parent you have duties and responsibilities and if you do not fulfil those duties and responsibilities the State will intervene, as it does in some cases through the welfare system and social workers and so on to make sure that children are protected and looked after (Interviewee 4).

This issue highlighted by Interviewee 4 with regard to the rights of the child is further explored by many of the other interviewees.

5.1.3 Rights of the Child

Two of the education interviewees assert that the current construction of the Constitution ‘raises concerns over the balancing of rights between parents and children’ (Interviewee 11).

In this regard, Interviewee 2 states that:

I suppose it has become very evident over the last four to five years that the Constitution as it is presently constructed presents difficulties for some children in that the rights of children flow from the rights of the family including the right to education (Interviewee 2).

Interviewee 2 asserts that the best place for a child is naturally a loving nurturing home, which is the norm for the vast majority of children, but he also highlights the fact that some families are not able to meet the welfare rights of their children, a concept also espoused by Interviewee 7:

The rights of the child need to be protected within the home, because with high unemployment and dysfunctional families, and with the breakdown of moral values, there are homes that are far from ideal at the moment. Even though people in these circumstances mean very well they are under extraordinary pressure, so maybe the whole aspect of children within home needs to be looked at (Interviewee 7).

Moreover, four of the interviewees further highlight the vulnerability of children in this regard:

Children’s rights are not on anyone’s agenda (Interviewee 3).

Children do not have political clout; children’s rights are realised, or not, through their parents and through organisations that advocate on behalf of children (Interviewee 2).

I suppose as everybody knows, the rights of the child has been the missing link; the Constitution and other rights are all around family and parents (Interviewee 1).

I have not seen the heads of the bill yet but I am hopeful that a referendum would result in more legal and constitutional rights for children (Interviewee 9).

The reality now is that we have nothing at all in place to protect children and I do not think anyone would want that (Interviewee 10).

I think that it is critically important that the State centralises the child in the context of being the most vulnerable and the one that the State has to have a particular commitment to safeguarding. Our recent history has shown that the child was not central in the past (Interviewee 11).

In this regard, Interviewee 2 expresses a concern that the ECHR's assertion that all children are equal needs to be expressly stated in the Constitution on the basis that 'quite an amount of legislation and policy flows from the rights of individual citizens in the Constitution and at the moment children's rights are not strongly enough represented'.

Interviewee 2 seeks a constitutional amendment to carve out a role for children that respects them as citizens and furthermore ensures 'that children's rights are express rights in the Constitution rather than being rights that are derived from the rights of the family in the Constitution'. He further points out that an amendment is needed to protect children against potential vulnerable situations; a vulnerability which was exposed by the Ryan report and highlighted by two other interviewees:

Especially in light of the Ryan report, I think there is a huge sensitivity now around the rights of young people and I think that it is an opportune time to look at a referendum to protect the rights of children and to make people fully aware, parents and educators and indeed the wider society (Interviewee 4).

I certainly know that subsequent to the Ryan report we need a commitment to the rights of the child (Interviewee 11).

However, Interviewee 10 exposes a concern that the referendum would only focus on the protection of children in terms of sexual abuse, rather than focusing on a more 'robust

consideration of the rights of children'. One of the interviewees identifies what the rights of children should be:

I think the child has a right to be heard, to be listened to, they are young adults; they are people. I think sometimes authority can omit or forget that children are people and they have a right to be listened to and they have a right to be protected and protected in the broad sense (Interviewee 6).

There is mixed feeling among the education interviewees pertaining to whether or not a referendum on the rights of the child is inevitable, as exemplified by the comments of the interviewees:

I do not see this government pushing through a referendum on this issue; it would appear that they will do everything to just avoid it (Interviewee 8).

Obviously a children's rights referendum is more than likely going to happen in the immediate future. What the guidelines to that would be or what the outline of the bill would be I do not know at the present time (Interviewee 7).

We have been waiting for a referendum for a long time; I do not sense any urgency. Every time we have a report like the Ryan report it comes to the top of the political agenda but it disappears again; it has not been a priority since the foundation of the State (Interviewee 5).

The referendum will come in time and it will be overwhelming passed and people that try to put it down will have ulterior motives which have nothing to do with children's rights (Interviewee 3).

Interviewee 11 extends the responsibility past the State to protect children and observes that:

Parents have to step up to the mark and be seen to be actually taking their role as parents seriously. Sometimes you have a situation whereby a child is extremely vulnerable and the parents have not stepped up to the mark (Interviewee 11).

The responsibility of parents is also examined within the framework of choices pertaining to formal schooling.

5.1.4 Choice of School

One of the interviewees submits that parental right to choose the school that their child attends is dictated by the Constitution:

Parents can choose where to send their children to school, it is there in Article 42 and 44 of the Constitution; it is enshrined in the Constitution. Some parents will understand it very well themselves and they will know it; others just go along with the type of schooling that is available to them in a particular area (Interviewee 6).

The concept of availability of schools in a particular area, as outlined by Interviewee 6, exposes a theme spanning the interviews with regard to the impractical nature of the existent right for a parent to choose their preferred school for their child:

I suppose parents have a right to choose what school their child will go to; having said that you can choose a school but there might not be a place for the child (Interviewee 4).

What about the situation where a parent wants to send their child to a school and a school might not have a place for that child? (Interviewee 6).

The question raised by Interviewee 6 in respect of enrolment policy is addressed by many of the interviewees in respect of the geography pertaining to the Irish school system:

Some parents in different parts of the country may have a limited choice because of the geographical location and there might be only one school in the locality (Interviewee 6).

This is a minefield, particularly in the rapidly developing new suburban areas. In these areas the problem is access to any school because enrolment policies vary and that might be a legal minefield (Interviewee 7).

The right to choose a school is very much a qualified right in the sense of the example of small rural area where there is only one school; then the State is meeting its obligation to provide for the education of that child but it is not giving a great amount of choice (Interviewee 5).

Most children in rural Ireland would have a Catholic village school that is quite close. Alternatively parents can choose to send their children to a different denominational school, but not necessarily everywhere (Interviewee 3).

However, Interviewee 5 and Interviewee 7 express viewpoints that choice is improving:

The role system is improving; there are generally two or three schools within reach of the parent who is free and who, I suppose, has the resources to drive their children (Interviewee 5).

Most parents have a choice between primary schools, whether it is coeducational or single sex, and possibly a Gaelscoil in their area or maybe they choose between the Catholic patronage school and the multi-denominational school. A lot of parents make their decision based on transport (Interviewee 7).

The derivative issue is that the current lack of availability of a diversity of schools, notwithstanding whether or not it is improving, extinguishes what Interviewee 3 describes as the parental 'role of deciding' in respect of education and schooling. With regard to how this issue should be addressed, the interviewees perceive the State to be responsible:

Catering for choice is a state or a planning or even a local authority issue to make sure that there are enough places available in a particular area (Interviewee 6).

If it happens that there are children in the locality who cannot be provided for within the locality in their local school or in neighbouring schools there has to be a role then for the State to make sure that those children are looked after as local as possible. The Government did that two years ago in a particular area in Dublin; where there were a number of children for whom there were not places in the local school they set up another school (Interviewee 4).

Interviewee 6 highlights a model situation with regard to how to address the juxtaposition between the right of the parent to choose and the lack of availability of choice pertaining to schooling:

The great model is out in Adamstown where they have the Catholic school and the multi-denominational school in the one campus. It works so well because people have the choice on their doorstep (Interviewee 6).

The model exposed by Interviewee 6 endorses the vision of education espoused by Interviewee 8:

I think what you see and I think what is evidenced by many examples is that a clear contradiction exists; parents essentially have no choice. In a vast majority of areas in the country parents have no choice whatsoever; they may have a choice between different denominational schools but they do not have a choice between a religious school and a school which is not under the authority of churches. That has been an issue which has been increasingly referred to in a succession of international treaties to which Ireland is a signatory, both United Nations and the Council of Europe and is a matter of legal comment by the Irish Commission of Human Rights and other bodies (Interviewee 8).

Interviewee 5's submission in respect of the prevalence of denominational schools complements the sentiment expressed by Interviewee 8:

Schools are ninety percent owned by the denominational bodies, the churches; I do not believe that Ireland is anywhere near that figure in terms of people's real allegiance to religion. That said, I think religion is very far down the criteria that most people use when they send their children to school; things like geographical location, childcare arrangements and the reputation of the school in the community for various things, not just academic and religion comes in, for most people I would argue, quite far down (Interviewee 5).

Interviewee 6 makes a prediction regarding how this issue will progress into the future:

Parents are going to have more choice. Up to this they only had the choice of the Catholic schools or Church of Ireland schools or faith based schools but we are becoming a more pluralist society and the fabric of Ireland is changing as well, so therefore a one size fits all model regarding where to send children to school does not work anymore (Interviewee 6).

Similarly, Interviewee 1 purports that:

There is certainly a wish out there for less provision for denominational schools and more provision for multi-denominational and maybe even non-denominational. You have to put arrangements in place for the divestment to happen the way parents want it to happen (Interviewee 1).

Interviewee 5 proposes a potential difficulty in respect of the divestment process:

Will the Catholic Church retrench into a more determined or more Catholic community of schools and if you are not a fully signed up member of the church that you do not get into the Catholic school? (Interviewee 5).

Specifically, it emerges that there is a dependence on the State to be responsible for the choice of school that is available for children, which contrasts with a perception among interviewees that parents have a responsibility with regard to the age that children start school.

Interviewee 4 summarises the sentiment of the interviewees in this regard:

The law of the land says they have to go by six but traditionally children have been going to school from four years of age.

Interviewee 4 further asserts that:

Parents themselves think it is better if children are nearer five when they start school; that they are more mature and better able to cope and you will find that some enrolment policies will say you have to be four before a certain date of the year.

Interviewee 4's comments are significant in that they expose a contradiction between what parents want, namely children to start at five and what schools expect, namely that children enrol from four years of age. Interviewee 4 expands the viewpoint that 'parents are very aware now of children not starting school before they are ready'. These collective comments

by Interviewee 4 expose a concrete example of parents asserting their role as primary educators by making a choice to enforce a particular element of their child's education thereby taking precedence over the both the law and the State. The theme of choices in relation to the embodiment of the parental role in education is further examined by focusing on the concept of home education.

5.1.5 Home Education

Interviewee 5 exposes the fundamental nature of the right to home educate children:

I suppose the ultimate right as a parent is the right to home educate; you do not have to compulsorily enrol your child in a school as happens in some systems (Interviewee 5).

However, many of the interviewees express concerns in relation to the system of home education:

My one concern really for the children is the whole social dimension (Interviewee 11).

I actually think it can be fine, provided parents would know what the minimum requirements are (Interviewee 6).

I suppose my concern would be that the young person would get adequate schooling. There are eleven subjects in the primary curriculum; that all of those subjects are touched on, and that children are kept abreast of what their age group would be doing in school, is important (Interviewee 4).

The concerns of the interviewees are interesting in that they culminate in a deep-rooted opinion that parents lack the capability to home educate. Interviewee 4's comments expose this principle by surmising that parents would not be able to provide adequate education for a child while making no reference to this being a state-imposed issue. The concerns regarding

home education are indirectly expressed by interviewees seeking to understand why parents home educate, thereby highlighting their issues surrounding the concept:

My significant hope is that when they choose to home educate it is not because they had an experience themselves which is negative and they are imposing that on their child (Interviewee 1).

Education is the homogenous development of all the faculties according to Plato. It is questionable if a home education system, deprived of the social interaction of a small number of pupils, satisfies the educational criteria. Parents may be failing in their primary duty in this respect (Interviewee 7).

I actually do feel that schools have become much more welcoming; so the motivation behind why a parent is home educating is something that needs to be addressed. Maybe parents have issues and matters of concern to them in relation to a system (Interviewee 11).

Interviewee 11's comments espouse a perception of a secondary role for parents in that they are only home educating because they are reacting to the State-imposed system of education rather than primarily determining the course of their child's education. This concept is further addressed by the following submission:

I would admire parents who, for the very best reasons, choose to keep their children at home, but I would fully support that the State has a role to ensure that their children are getting a certain minimum education if children are not in what are considered to be recognised school settings. That should be monitored by the State so that we are not doing an injustice to children whose parents decide, for one reason or another, that the State system is not something that they want (Interviewee 11).

The idea that parents are incapable of home educating is addressed in a practical manner by Interviewee 3:

More cases are taken under the Education Welfare Act around people who are genuinely trying to home educate, but maybe are just a little inefficient at it, rather than by people who are deliberately keeping their children at home because they do not want them to go to school (Interviewee 3).

Two of the interviewees propose that few parents are interested in pursuing home education stemming from parental satisfaction with the school system:

I never met anyone in forty five years who wanted home education (Interviewee 7).

A very small percentage of people choose to home educate but only because they have issues with the mainstream schools. The vast amounts of parents are happy to let their child off to school to be educated. By and large most parents are happy with the way schools operate (Interviewee 9).

A distinction must be made at this juncture between interviewees' comments regarding formal home education and parent's natural engagement in their child's education. There is an overwhelming emergent consensus among interviewees of the value generated from parental engagement in a child's education; this study does not need to rehearse that sentiment which is adequately summarised by Interviewee 4:

Parents very much are key to the child's education (Interviewee 4).

However, the level of involvement by parents at school level requires analysis within this study.

5.1.6 Parental Involvement

The interviewees cite examples of opportunities for parental involvement which centre predominantly on areas which do not directly relate to specific educational activities:

If there is a building programme they might be very involved with planning, planning application, architects' plans etc., so that it depends very much on a school, it depends very much on parents but there is great scope there for parents to be involved (Interviewee 4).

I think primary schools by and large welcome parents in; they welcome their involvement in many aspects of school life. For example the provision of sport; for

some schools a successful sports programme would not run without parental support from everything from providing the transport to the gear to developing local links with clubs (Interviewee 5).

Parents support the teacher in doing the homework and showing that they are positive towards school. They need to be positive in their attitude to all aspects of education. They need to show proactive support for their school; for fundraising, for table quizzes, sports days; they need to show that they are one hundred per cent behind the school because the child assumes that their school is the second home if the parents are positive (Interviewee 7).

They can get involved in extracurricular activities, they can be involved in celebratory events; First Communion, Confirmation, maybe open days. Parents could get involved in shared reading, paired reading. If you had someone who was very gifted in a particular skill like craft or something they could be working with the children (Interviewee 6).

The proposal cited by Interviewee 6 pertaining to a parent utilising a particular gift provides further insight into the emergent theme from the transcripts in respect of parental inability to source educational opportunities for their children. Interviewees 3 and 7 express viewpoints which contrast sharply with the other interviewees in respect of activities which they deem to constitute ‘placatory involvement’:

Take the example of checking the homework; personally speaking that is nonsense; that is not involvement in education but it would be considered as parental involvement by large numbers of parents and large numbers of teachers and large numbers of schools (Interviewee 3).

Involvement in school activities does not constitute partnership in education. It has a welcome, helping, practical role but completely unconnected with rights. It is not a squatter’s pathway to establishment of rights. The word ‘rights’ is completely unconnected with this voluntary help (Interviewee 7).

This concept of placatory involvement is expanded upon by Interviewee 10:

I know the findings from two phases of the Curriculum Review Group 2005 and 2008 showed that, while parents do play a significant role in the life of the school and they do participate in the work of the school, their role was often relegated to that of

fundraiser or token person helping out in the classroom. It really horrified me; everybody believed parents were significantly involved in the life of the school and the extent of it really was tokenistic, indeed a limited involvement (Interviewee 10).

However, it appears that the activities which are illustrative of placatory involvement are at the lower end of a spectrum of involvement:

My own experience is that there is a continuum and you have schools at both ends of that continuum; you have schools with very little parental involvement and you have schools with significant parental involvement (Interviewee 11).

According to the interviewees individual schools have different places along the spectrum in accordance with the history of the manner in which schools traditionally involved parents:

When I became involved with the home school liaison scheme I began to see that in a way what we had thought as involvement of parents was very limited; it was very much, for want of a better word, using parents to help us. From 1990 onwards when we became involved in the home school liaison scheme we just saw the role of parents in a greatly expanded way (Interviewee 4).

There are stages of development and there are schools at different ends of the spectrum (Interviewee 11).

Parental involvement varies from school to school from where you have the minimum of two parents on the board of management and a parents' association to where you would have active involvement; where you would have parents involved in policy formation, involved in the whole life of the school (Interviewee 6).

Parents also differ in respect of their position along a continuum of involvement:

Parental involvement varies because you have a continuum of parents who are maybe very advanced in their thinking and parents maybe who are not that involved with their children's schoolwork; I just want to say it is not because one set is more interested than the other. It is a proven fact that every parent is interested in his or her child, that is a given, but the extent to which they can be involved in school or with homework or in other informal ways of educating their child will vary depending on the home circumstances (Interviewee 4).

I would have seen this over the years that parents maybe have less time to be involved in school; they are not as free as they were for various reasons (Interviewee 11).

Some of the interviewees suggest reasons why the parental role is changing and why many parents experience time constraints in respect of their willingness or otherwise to involve themselves in school life:

It is hard to motivate parents. Time is precious to people, time is money and people sometimes do not want to give the time or do not want to get involved (Interviewee 6).

I suppose it also comes down to the issue of time; the processes of policy formation can be long drawn out. Parents are busy people, they cannot be involved in everything; they have to choose where they can best make the contribution (Interviewee 1).

The role of parents certainly has changed. I suppose the statistics in particular on the return of women to the workforce are very much a part of that. I think parents are more rushed, are more hurried. I think the role of the parents is certainly changing as they try to negotiate quality time with children (Interviewee 10).

The comments expressed by the interviewees in respect of parental involvement ultimately expose a theme whereby, although parents and schools operate along a continuum of opportunity for involvement, ultimately this involvement is tokenistic. This concept is further developed by focusing on the issue of partnership as summarised by Interviewee 2:

I think in general things have changed for the better in that there are more opportunities for parental involvement, whether partnership is maybe a step up, parents are more involved in the life of the school now than they were in the past (Interviewee 2).

5.1.7 Educational Partnership

Interestingly, some of the education interviewees highlight the legality attached to the principle of partnership in Ireland:

There is a provision for partnership or an obligation on the State to operate in an approach of partnership in the Education Act (Interviewee 8).

We have a constitutionally identified role of parents as primary educators and we have the Education Act which identifies parents as partners in education (Interviewee 3).

At national level parents are legally recognised as one of the partners (Interviewee 2).

It is recognised that the parents are partners in education, very much so and it is quite clearly defined in the Education Act (Interviewee 6).

However, Interviewee 4 exposes a difficulty with a legal angle being attached to the partnership process:

You can legislate for partnership but if something is mandatory and over legislated for possibly the attitudes will not be right; it has to come from the heart (Interviewee 4).

The interviewees extend the legally recognised principle of partnership to observations regarding the standing ascribed internationally to Ireland's partnership arrangement.

5.1.7.1 International Recognition

A number of interviewees point to the international standing associated with the current partnership arrangement in Ireland:

It is acknowledged internationally that our partnership process which involves parents is quite unique worldwide (Interviewee 4)

Ireland would be one of the leading lights across Europe in the context of having a National Parent Council, and within that context, it is government supported and funded by the Department of Education (Interviewee 11).

However, Interviewee 3 stresses a belief that progressive partnership exists only in theory:

In theory we have the most progressive partnership structure in Europe. I would say that there is no country that in reality has a less strong role for parents (Interviewee 3).

Many of the interviewees trace the evolution of partnership in Ireland and reflect on a historical period where partnership was limited:

There was no partnership if you look back at the 1960s, 1970s, maybe even the 1950s (Interviewee 6).

I suppose I realise now how limited and narrow my focus had been on partnership from 1975 to 1990 (Interviewee 4).

The 1971 curriculum was developed by the Inspectorate in the Department with very little recourse to anybody outside. I suppose the 1999 curriculum seems to be a watershed maybe because there was partnering in the process of developing it (Interviewee 10).

The interviewees seek to explain the shift between the early partnership arrangement and today's model with many relying on specific educational events as milestones for change:

What has moved us from the partnership arrangement in the 1960s or 1970s to today's model? Education...I think with the establishment of post primary schools around the country and transport for people to get there, it enabled a generation to go to Leaving Certificate and they then got jobs and a lot of them went on to third level and that then would have empowered them to see the value of being involved (Interviewee 6).

One of the most significant developments in the history of education was the free education introduced by Donnchadh O'Malley in the late 1960s; this was a revolution. Prior to that the State had more or less neglected its secondary school obligations; Christian Brothers and various religious orders provided secondary school education which was limited due to availability of finance and the necessity of being a boarder to the select few. From 1970 onwards practically every pupil started the process of widespread secondary education. Parents' rights were greatly increased (Interviewee 7).

I think partnership was evolving slowly in the 1960s and 1970s over certain issues and in certain places; you could probably count the campaign against corporal punishment as one of those key issues where parents started to assert their rights; that led to parents getting together and teasing through issues (Interviewee 5).

In the 1960s and 1970s the teachers taught; it was quite a severe atmosphere as society itself was severe and unmerciful. Teachers had extraordinary power; people were in awe of them; there was a feeling that they did wonderful work but in many cases parents would not dare to approach the school; except in an enlightened home or a more enlightened school where the parent dared to come up and discuss an issue. However, the whole arrangement has changed; management boards became an issue because they introduced parents into the idea of helping and the school became partly theirs in a partnership. Then parents were elected onto the board of management; then parents' associations became involved (Interviewee 7).

The Home School Community Liaison Scheme made me very conscious of partnership and very conscious of my own thinking on it...all of the schools involved in the Home School Community Liaison Scheme since 1990 are very aware of partnership with parents, very respectful of it and very encouraging of it (Interviewee 4).

In the late 1970s I think maybe the establishment of the Educate Together movement may have just driven a different interest on the part of parents in education. I think there was probably a bit of a ground swell at that stage that led to an articulation by parents that they wanted a broader role. I also think that 1985 was really a key year when the NPC was established (Interviewee 1).

I think the basis of partnership evolved over time; it has been an evolutionary process (Interviewee 2).

Interviewee 2 parallels the concept of educational partnership with the growth of social partnership stating that both are the result of a cultural shift:

Why partnership is here and how it is fostered has come from recognition that the old patriarchal way of doing things does not work. I think partnership in education probably reflects that as it has done in broader society (Interviewee 2).

Having examined the evolutionary process surrounding partnership, the interviewees also consider the level of partnership that exists today.

5.1.7.2 Current Status of Partnership

The current status of partnership in Ireland is viewed differently by the interviewees:

We have moved a long way but I would still say that there is not one hundred per cent partnership (Interviewee 6).

I am not sure that schools are anywhere close to real partnership with parents; I think what we have now after the last twenty years is a development of more opportunities for elements of consultation but there is a significant difference between consultation and communication and real partnership (Interviewee 11).

Right down at individual school level but also at national level parents are recognised as one of the partners (Interviewee 2).

Where do parents have a role in terms of exercising power, either over what their own child learns in the broadest sense, or what children in general learn in the broadest sense? For example, if every parent in Ireland thought that French should be introduced in third class, would that happen? No, because partnership is a fraud (Interviewee 3).

Many school policies are devised with significant parental input which embodies partnership (Interviewee 5).

From the policy perspective the concept of partnership I would say is sound; its operation at individual school level will be different. It can often be down to the individual personality of leaders in schools (Interviewee 1).

There is further dissent among interviewees with regard to how partnership is defined.

5.1.7.3 Definition of Partnership

Some interviewees define partnership in positive terms:

I think it is a culture; it is a spirit (Interviewee 6).

I think it is a complex term, I suppose partnership in simple terms involves people coming together and looking for a position that they can agree on (Interviewee 10).

Overall partnership is about recognising that it is a shared endeavour between schools and home and that it is to the benefit to children when you both work together. Therefore openness, transparency and a genuine partnership between home and school are really what are envisaged (Interviewee 1).

Other interviewees indicate that partnership as a word is overused and misunderstood:

Partnership is complex; I actually think it is a word that is bandied around a lot (Interviewee 11).

Partnership is, for a hundred thousand reasons in Ireland, used far more than it should be to mean nothing (Interviewee 3).

Interviewee 4 distinguishes between partnership and partnering:

I suppose if you were to look at the word partnership, partnership is a structure, like a board of management is a partnership; a school staff is a partnership but really what you need to have happening is partnering. It is the verb that is important because you could have a lot of partnership structures which are just giving lip service to partnership but true partnering really is where you are living out the partnership.

The definition of partners and partnership extend into an analysis of how partnership operates.

5.1.7.4 Partnership in Operation

Interviewee 4 describes the importance of partnership as a process:

I really do believe that everybody has a right to have their say...I do believe that you get the best possible outcomes in every respect with regard to content, authority, procedures and policies through a partnership process because you get all the thinking on the table and you have boundaries with regard to respect.

The concept of respect as the basis for the partnership process is also highlighted by

Interviewee 8:

Where partnership can be built from a position of mutual respect and support, then there are very significant benefits accruing to the whole process and particularly directly to the children involved in the classroom and in the school.

A further principle which emerges with regard to the operation of partnership is equality, as summarised by Interviewee 3:

Partnership is around two or more people working together to achieve mutually agreed aims, the equality is to be absolutely implicit, so it is around people who have the same amount of power working together to get something that they all want (Interviewee 3).

However, he contends that ‘certainly in education there is no hope for or aim for equality in that partnership process’ (Interviewee 3) citing the following reason:

I think I am right in stating that when the 1998 Education Act was scripted, the term equal partnership was in there, in the final draft it is not. I would make the case that equal partnership is a totality because there is no such thing as an unequal partnership; that is a dominance, but the fact that somebody thought it appropriate to put it in and the fact that somebody fought quite hard to take it out again would, I suppose, be a fair indicator (Interviewee 3).

Communication is heralded by many interviewees as a vital principle pertaining to the operation of partnership.

5.1.7.5 Partnership and Communication

The interviewees highlight the importance of communication as part of the process of partnership:

Communicating is a two way process; it is not just the school deciding how it will communicate with parents. Parents need to know how communication will operate from their end; there has to be a common sense approach to this (Interviewee 4).

I think communication is the kernel to partnership (Interviewee 6).

The interviewees expand on the concept of communication and cite examples of how communication could take place in the school environment:

I mean usually schools will hold meetings at the beginning of the year, it might be a class meeting or groups of classes in a big school or it might be a whole school meeting in a small school where the Principal and maybe some of the teachers will speak to parents about the flow of the year, and just remind them about things like communication (Interviewee 4).

Through texting, through the internet, through induction meetings, through newsletters, through invitations to different things, through encouraging parents to drop in if they have some fantastic idea and also through the children (Interviewee 6).

I suppose schools should take a lead in communicating but it is a two way process. The advent of IT makes a big difference; the fact that most schools now have a website makes a big difference (Interviewee 1).

Many teachers and parents communicate by email now or by text in relation to little things about children's welfare (Interviewee 5).

The structures within schools are providing the avenues of communication; teachers are aware that schools run more smoothly and children are happier if the avenues of communication are open. A school concert or a sporting event becomes the blend that blends parents, pupils and school and they are nearly a blessed trinity or troika in themselves (Interviewee 7).

However, Interviewee 3 explains that the communication must move beyond a consultative based communication stating that: 'I see bodies that are good at consulting with parents that are not very good at partnering parents'. Similarly, Interviewee 7 states that:

Much of the communication between school and parents is merely providing practical information. Public information meetings, open days, sacramental preparation meetings are neither an admission nor a consideration of the rights of partnership (Interviewee 7).

Notwithstanding this submission, two of the interviewees contend that 'placatory partnership' is not in existence:

I think there are tremendous efforts to involve parents; some of them are tokenistic no doubt but many of them are truly inspired and well intentioned (Interviewee 10).

I honestly cannot think of any situation that I am aware of at first hand where there is a partnership structure but it is only lip service (Interviewee 4).

These two interviewees present the rationale of why placatory partnership does not exist:

Partnerships will operate at different levels; for some the partners will be very closely involved round the table discussing everything; some partners can be at a remove just touching base occasionally but being continually informed and contributing, some partners may not have much to give by way of time but they may be giving monetary contributions, resources or material goods. The important thing is that there is a

common understanding, there is a shared goal, that people are working towards the same thing albeit contributing differently (Interviewee 4).

There are super partners and then there are less important partners (Interviewee 10).

The interviewees identify exactly who the partners are in the process of educational partnership as well as commenting on the role of the various partners in the process.

5.1.7.6 Partners in Partnership

Some of the interviewees list the partners involved in the educational partnership process:

Staff of a school, the parents, the board of management, other people as well like agencies; the Inspectorate is in an outer circle (Interviewee 4).

There are many players and the system cannot really develop or move forward without partnership. What is important is that there would be full participation by all of the players; the connection between the Department which is minding the system and the patron bodies and the teachers who are providing it and the ancillaries like the training colleges. The Department has agencies that have been set up to provide the type of supports that the system needs but the system is actually a group of partners (Interviewee 1).

A real education partner means that you are recognised by the Department of Education as a stakeholder, as someone who has a vested interest in education; trade unions, management bodies, churches, professional associations, and parents (Interviewee 9).

If I thought of partners in education I would think of the State, the Department of Education and Skills itself, parents, the teachers unions, obviously the patrons; I suppose they are what are considered the major partners (Interviewee 2).

Interviewee 2 submits that children should also be included as partners in the education process, an opinion shared by another interviewee:

I think bringing children into partnership is the next step; where we sit at the minute we do not consider children as partners; I have never heard of children referred to as partners. We need to promote the voice of children under Article 12 (Convention on

the Rights of the Child, 1989); that is the first step in developing a role for children as partners (Interviewee 2).

The children should be involved, certainly in fourth, fifth and sixth class as they know what they want and they know what they need (Interviewee 3).

Interviewee 5 exposes an example in respect of children's inclusion in the partnership process:

Take for example school uniforms; when I started teaching the school told the parents what their children should wear. Now even primary school children are consulted in relation to the school uniform. That was unheard of even thirty years ago that you would consult children, never mind their parents so things have moved on (Interviewee 5).

Interestingly, the interviewees refer to the fact that some partners are in an 'outer circle' or are 'major partners', indicating that some partners in the process are perceived to be more dominant than others. In this regard, the role of the various partners in the education process as perceived by the interviewees is outlined below.

5.1.7.7 Role of the Department of Education and Skills

Interviewee 1 situates the role of the Department of Education and Skills within a legal framework:

From the legal perspective, the Department is situated in a legal sense as facilitator; providing for the education of the children in a formal way but the parents have a key role in the education of their children, and that extends into the life of the school. That may not always have been the case but certainly in recent times it has developed to the extent that we would see parents as having a key role in the education of their children (Interviewee 1).

The Role of the Department of Education and Skills according to other interviewees extends along a continuum, from the Department instigating important initiatives in the education

process to the Department being perceived to be a weak partner in the process. One of the interviewees does not concur that the Department of Education and Skills has a dominant role:

The status of the Department as a partner in the education process is quite weak; there are parts of the Department which work very hard to embrace the process but the current phase of the Department tends to retreat into a silent and non communicative role (Interviewee 8).

However, two of the interviewees indicate that the Department of Education and Skills has a dominant role as a result of their dictation of policy:

Going back to RSE which was introduced in 1996, it was a requirement that there would be an RSE policy under SPHE in every school and that policy had to be formulated through a partnership process of parents, teachers and board members and a lot of policies that have emerged since would have a similar partnership basis (Interviewee 4).

There is no doubt that the circulars and the guidelines that were sent by the Department to schools in the context of relationships and sexuality education, anti-bullying and codes of discipline did actually in some schools create an impetus whereby the schools actually got parents and teachers around a table (Interviewee 11).

It is significant that the impetus to include parents is viewed by Interviewee 11 to be driven by the Department of Education and Skills as opposed to arising from parents themselves. The principle that partnership with parents should be initiated by a partner other than the parent themselves is further exemplified by an analysis of the role of the school in the partnership process.

5.1.7.8 Role of the School

Some of the interviewees submit that schools should initiate the partnership process with parents:

I think, to be fair, schools have made a great effort to go out to parents in more recent years and try to involve them and engage them in different ways (Interviewee 11).

There are four thousand schools out there so it is the individual school's interpretation of what partnership is that is an issue (Interviewee 1).

I do think the process of partnership goes back to individual schools and this is regardless even of sector (Interviewee 2).

Partnership very much depends on the schools (Interviewee 4).

One of the interviewees expresses the opinion that the role of the school, in terms of promoting partnership, should take precedence over any national policy:

I think ultimately the connection with parents, in terms of going forward, has to happen at local level. Now presumably there could be some kind of national procedures and guidelines that are recommended, or maybe that are required for schools, but I think the idea of parents learning and knowing more about schools has to be in the local context given how schools operate very differently from one another (Interviewee 10).

Some of the interviewees extend the concept of the school as a partner to the community as a partner:

I would not just look at the role of parents but I would look at the role of the community in the wider context of their involvement because there is the old saying that it takes a village to rear a child (Interviewee 11).

If the school is part of the community well then the community should have some input (Interviewee 3).

A further partner identified by interviewees in the educational partnership process is the teaching profession

5.1.7.9 Teachers and Partnership

There is a wide ranging spectrum of viewpoints amongst the interviewees with regard to the attitude of teachers towards partnership. Interviewee 11 considers teachers to be lacking in confidence in respect of the inclusion of parents:

I think there is a reticence from teachers and probably a lack of confidence sometimes to really actually help parents engage and understand the complex role that is teaching; I would think we are still a little bit away from partnership yet (Interviewee 11).

However, Interviewee 1 presents an opposing synopsis pertaining to the position of teachers:

To be fair to teachers, they certainly would not see themselves as experts in the provision of education (Interviewee 1).

Other interviewees believe that teachers perceive parents to interfere with their professional identity:

From the teachers' point of view, some teachers could perceive parents maybe to be interfering or dictatorial or dogmatic or wanting to prescribe what the child will be taught (Interviewee 4).

There is a role for teachers as professionals and you do not want the parents sitting everyday watching you or listening to you or working with you; there are other ways of involving parents without infringing on your professional role (Interviewee 4).

Certainly the norm would be for professionals in any industry to consider themselves to be superior to non professionals; that is based on social class, wealth and educational standards (Interviewee 3).

There are still a small percentage of teachers who possibly feel threatened; particularly older teachers, by the removal of the safe barriers. They would see themselves as professionals and see parents as interfering in this process. To be

honest, partnership was never high on teacher's agenda as teachers always had to campaign for better working conditions; lower class sizes were more important to teachers than constitutional issues (Interviewee 7).

Teacher's attitude to partnership with parents varies from total hostility and objection to just total acceptance. I think it is changing though, I think we have fewer teachers at that extreme; I think they would be a total minority (Interviewee 6).

Interviewee 4 highlights the importance of partnership to cultivate the professionalism of teachers:

I think the professionalism of teachers is enhanced by opening up that role and sharing it with others like parents (Interviewee 4).

The resultant fact, notwithstanding whether teachers are reluctant to involve parents or lack confidence with regard to the inclusion of parents, is that the attitude of teachers presents an obstacle to parental partnership. Two of the interviewees provide a viewpoint as to why this may be the case:

It might be subconscious but certainly teachers do not want parents getting in there getting in the way, asserting their rights and being part of that process (Interviewee 3).

I think teachers have been very much in the balkanised states, as Hargreaves would say; where teachers have been involved in their own class and classroom and had not even collaborated with the wider staff; much less involve parents. That culture is changing; it is changing dramatically (Interviewee 4).

Interviewee 2 suggests that teachers are simply trying to protect their position in circumstances where they have only recently achieved a place in the partnership process in Ireland:

I think teachers preceded parents in terms of getting a seat around the table; I think there was a time when maybe teachers were not around the partnership table either and parents over the last thirty years have managed to shuffle in there and get a chair around the table (Interviewee 2).

Two of the interviewees express an extension of this synopsis, namely that parental perception surrounding the actions of teachers manifest a situation whereby parents cannot exercise a strong partnership role:

I would see in the main that parents find themselves quite poorly represented. Looking at UCC research, there was a very serious disconnect reported in the executive summary throughout the report between what teachers perceived as being an open door policy to parents and what parents perceive as being a fairly unwelcoming policy in the main (Interviewee 10).

Parents can have obstacles, they can perceive teachers to be authoritarian; they can perceive them as people who do not want to engage (Interviewee 4).

Further commentary in this area is provided by Interviewee 11 in respect of the role of teacher unions in promoting partnership with parents.

5.1.7.10 Role of the Teacher Unions

Interviewee 11 states that ‘definitively over the years general secretaries of the unions have been supportive of the role of parents in the context of the involvement of parents in a general way with schools’. Interestingly, Interviewee 11 uses the term ‘involvement’ as opposed to ‘partnership’ and goes on to explain the reasoning:

Going back to the National Education Convention and at their round table discussions there seemed to be a quite clear delineation amongst teachers in relation to the role of the parents in curriculum matters, in the teaching and learning. Teaching and learning was the teacher’s domain and there was a role for parents in the context of wider policy areas like discipline, attendance policies, codes of behaviour and bullying. I always found that very interesting (Interviewee 11).

Interviewee 11 expresses a viewpoint that the ‘teacher unions would be more comfortable with parents in supporting the school rather than necessarily a rights based approach which

would obviously affect the differing roles and rights'. However, Interviewee 11 proposes that a more 'mature relationship' is being fostered:

I think there are complementarities there between the role of the parent and the role of the teacher and I would suggest needs to come from a shared understanding. I do think that having teacher unions and parents in working groups together is helping that along from the point of view of providing each with a greater understanding of their complementary roles in the context of the education of children (Interviewee 11).

Analysis of the education interviewee data indicates that there are other obstacles to partnership outside of those initiated by teachers and their unions.

5.1.7.11 Obstacles to Partnership

A broad range of obstacles to the process of educational partnership are exposed by the interviewees:

There probably is complacency now that structures are in place; I mean you have schools, you have a parents association, you have a board of management and you have a National Parents Council that represents parents at a national level (Interviewee 1).

I would think, as against some jurisdictions, that there are still blocks particularly around parental involvement in the context of the whole school evaluation process in the sense that parents are not involved to the same extent as might happen in other OECD countries (Interviewee 11).

Teachers differ, parents differ; so if you get a mismatch between the thinking at home and in school there will be an obstacle then maybe to communication and partnership (Interviewee 4).

Fear of the unknown causes people to put up barriers and obstacles to partnership. Power; bodies feel that they are losing power (Interviewee 6).

There can be obstacles of time as well from parents' point of view. Schools operate from opening to closing time; teachers work well beyond those hours but maybe they are not on the school building and if parents work they might not be readily able to access teachers (Interviewee 4).

A further obstacle to partnership is of a monetary nature according to some of the interviewees:

I think it will be interesting to see how the economic downturn affects partnership. I would envisage that some of the proposed cutbacks are going to cause strains on partnership (Interviewee 2).

A lot of the challenge surrounding partnership at the moment is about money sadly. There was investment in relationships over the years, which were fine when there was plenty of money, now they are coming under pressure but the ground work has been done (Interviewee 1).

I suppose some of the cut backs that have happened in education which have come about through economic circumstances have left the partnership process in difficulty (Interviewee 4).

I think the partnership model has worked reasonably well over the last ten years; my fear is that in the current downturn, with no one wanting to waste a good recession that partnership will go out the window. My fear is that consultation will centre on listening to concerns to meet obligations but executing the original plan. If that happens there will be a cost; I think there are some signs of it already (Interviewee 5).

The responses of the education interviewees ultimately traverse a range of theories as to why partnership may be hampered; however, the most consistent reason cited as an obstacle to partnership according to the interviewees stems from parental memory of their school experience:

From the parents' point of view, some parents maybe did not enjoy school and they will have clouded memories or negative memories of school days and they may be transferring those attitudes to the current schooling (Interviewee 4).

There are unenlightened parents thinking back to their own bad experiences in school who would still be afraid to come to the school or unwilling and the deep rooted complexes would be there, so that would be a threat (Interviewee 7).

Maybe because of the manner in which parents have experienced schooling themselves, they do not have a thorough knowledge of what is going on or they have not informed themselves (Interviewee 6).

Quite a number of parents, depending on their own experience of schools, might find it difficult to approach schools and be actively involved (Interviewee 2).

The viewpoints of the interviewees in this regard expose a theme that parents need to be empowered to be partners rather than being primary partners in the process either naturally or culturally; a sentiment which is summarised by Interviewee 6's comments with regard to an ideal partnership arrangement:

Real partnership is about empowering parents and getting them to be involved and seeing the value of education and seeing that they have a role to play as well (Interviewee 6).

This phenomenon of the need to empower parents in respect of the partnership process, which is evident throughout the education transcripts, raises questions with regard to the primacy of the parental role and why other partners in the process, are required to empower parents to fulfil a role, which none of the interviewees deny is their entitlement. In this respect, Interviewee 3 states that 'partnership is flawed in construct'. Similarly, Interviewee 9 states that: 'I think educational partnership is a good thing but in this country it is there more in theory than in practice'. However, some of the interviewees propose that parents' own perceptions of partnership generates the situation whereby they need to be empowered to strengthen their respective role within the partnership process.

5.1.7.12 Parental Perception of Partnership

Some of the interviewees believe that parents themselves do not perceive themselves to be partners in the education process:

I do not think parents actually think it is partnership; there is still an element of leaving their child at the school gate and the teacher is the professional and so on. In the main parents let teachers get on with the process of education and it is only when an issue arises that they seek to become involved (Interviewee 1).

I do think that parents are quite a long way away from thinking of themselves as partners in the education process (Interviewee 11).

It (the Celtic Tiger) de-emphasised a lot of the important aspects of parenting such as spending time doing homework with children; parents think everything should be done at school (Interviewee 6).

Interested parents always have an avenue of approach but there are still a very high percentage of parents who are never involved with a school other than at sacramental meetings or at parent teacher meetings (Interviewee 7).

Parents want to be consulted about things that affect them like homework and uniform and the organisation of the school. They do not necessarily want to be involved in drawing up the Irish language policy for the school but they will quite happily play a supportive role in terms of helping the teachers. I think they just want to be informed of what the policies are in relation to professional areas but they want a say in the other areas that affect them directly (Interviewee 5).

Parents are not really interested in the curriculum; they want to be involved in policies where home and school cross over but not in all of the other areas (Interviewee 1).

The comments espoused by the interviewees in respect of parental perception of their role in the partnership process contrast with the interviewees' submissions in terms of parental positioning on boards of management.

5.1.8 Boards of Management

The interviewees present the numerical representation embodying the presence of parents on boards of management and consider their representation to be quite significant:

A quarter of school management is teachers, a quarter is parents. I mean that is a significant partnership and I think that role has developed significantly in thirty years; it is still not perfect (Interviewee 5).

Parents have a quarter of the seats on the boards of management, which are as many seats as anyone else has. Very often parents have more than a quarter of the seats on the board of management because very often the teacher representative is a parent, not necessarily in the same school (Interviewee 3).

Interviewee 4 considers the partnership process with parents to be strengthened by the key roles played by parents on boards of management:

Parents on boards of management will very often have key roles maybe as secretary of the board, or treasurer (Interviewee 4).

Many of the interviewees trace the presence of parents on boards of management back to the 1970s:

I would say since the introduction of boards of management in primary schools in Ireland around 1970 there is certainly a trend to facilitate parents but have we got to the end of the journey? I would not say so (Interviewee 8).

Parents, I think, have had a growing voice and if you go back to the 1970s at local school level parents were not involved in any intergovernmental structures really. It is only since parents have a recognised place on boards of management that then you have the NPC and so on; there has been some attempt to develop a network of parents and to get parents voices to influence the system at different levels (Interviewee 2).

The use of the phrase ‘some attempt’ to involve parents by Interviewee 2 echoes the sentiment presented by Interviewee 8 in respect of a lack of conclusion to the process of involving parents.

There are a number of theories provided across the interview transcripts with regard to why equality with parents has not been achieved in the context of boards of management. Interviewee 3 purports that an unequal relationship exists stemming from the predominance of figures of authority on boards of management:

The reality, certainly in rural Ireland, where the chairperson of the board is a person who has significant authority outside the board of a school, means that there is an unequal relationship between the chairperson of the board and other members of the

board, particularly if the chairperson is the priest and the secretary of the board is the Principal (Interviewee 3).

The constitution of the overall board of management still sits with the patron body which I think filters down and influences the whole system (Interviewee 2).

In a parallel argument, Interviewee 4 submits that a fundamental inequality transcends the makeup of boards of management because of the systemic manner in which decisions are made:

Policy development can happen in a very hands on way through everybody being at the board of management table; but you could have a rubber stamping of policies, which are developed through the school staff, brought to board of management for approval and the board representing all partners looks at the policy, discusses it further, maybe suggests amendments and finally approves it, so that could be partnership, but at a remove (Interviewee 4).

Other interviewees point to the lack of training given to parents in order to theorise why inequality exists, notwithstanding parental inclusion on boards of management:

Many boards of management are without proper training, it is getting very complex particularly when there is trouble. The parent can really feel like a lay person without the necessary skills (Interviewee 5).

I think it is very important that support and training be provided for all members of the boards of management but obviously for parents as much as for anybody else (Interviewee 2).

With regard to who should be responsible for the above referenced training, Interviewee 2 points to the State, as bearing the main onus:

I think ultimately the State is responsible for that training; the State has moved down a road of partnership. I mean for partnership to work effectively everyone has to be enabled to be a full partner so that presumes there has to be some sort of support to do that and for me that would sit with the State (Interviewee 2).

The sentiment presented by Interviewee 2 is enlightening in that he presents a theory whereby, first, the State induced parental partnership with parents and secondly parents need to be 'enabled' by the State to be 'full partners'. These concepts echo the observation made by Interviewee's 3 and 7 in respect of a lack of parental awareness of the partnership process embodied by boards of management:

The majority of parents would know that the board of management exists at some level but they would not be aware of its role or function or who is on it. Indeed most parents would know who the parents' association are, have some idea who the board are; they might think they are the same thing (Interviewee 3).

Parents do not distinguish between management boards and parents' associations (Interviewee 7).

With regard to Interviewee 3's own perception of the delineation between boards of management and parents' associations it is stated that:

What parents' associations do will vary from fundraising to being mutual support self help groups to being battling revolutionary cells determined to overthrow the hierarchy within the school (Interviewee 3).

In respect of the role of parents' associations Interviewee 1 states that:

Some parents' associations would still be predominantly focused on fundraising; parents should be involved in a lot more than that; they have a role to play in how education is conducted in a school and they should really be given an opportunity to do that. Actually a lot of that is down to the dynamic in the school between the board of management and the parents' committees (Interviewee 1).

Other interviewees consider the responsibility attaching to the board of management:

Obviously there are some questions around how much responsibility the boards of management should have (Interviewee 3).

There has been a bit of a tussle in recent years about where responsibility lies for decisions made at school level, is it at board of management level or department level? It looks at the moment to be at department level, or at least until some court

decides otherwise. Some of the court decisions have cited that some of the responsibility for the day to day running of the school sits at board of management level (Interviewee 2).

The phrase utilised by Interviewee 2, 'until some court decides' is extremely significant in terms of suggesting that, notwithstanding the paramount authority devolved to the board of management, the courts effectively act as chief arbiter in terms of responsibility generated by various bodies and by extension, presumably, parents. In this regard, the interviewees' comments pertaining to the role of the courts are considered.

5.1.9 Role of the Courts

The interviewees attach significance to the role played by the courts in education matters and seek to define it:

The role of the courts has been to resolve difficulties and resolve problems (Interviewee 5).

The role of the courts is just to adjudicate on whatever the law is as it stands. There have been quite a few cases where individual judges, I would say, would have wished there was better or different law there but they can only deal obviously with what they have (Interviewee 1).

The reality is that courts do have a right. Everybody including the parent has the right of recourse to the court; that is a fundamental right; our Constitution says that is a right (Interviewee 2).

The interviewees expand on their understanding of the role of the courts by referring to practical examples of cases that have come before the courts. The interviewees trace the history of the involvement of the courts:

We have come through phases in relation to the law and education. I remember negligence cases being at the forefront in the 1980s. I think also, subsequent to that, the right that parents thought of was definitively in relation to children with special

needs; high profile cases like Sinnott certainly highlight that. Subsequent to that, in more recent times, are bullying cases (Interviewee 11).

In all of the law governing education there is an international perspective and sometimes that is where cases end up and the Louise O'Keeffe case is a classic example of that (Interviewee 1).

Thirty or forty years ago parents mainly went to court if a child fell where the school was negligent; most schools now have very good practices in place (Interviewee 9).

Up to now, I suppose, the courts came in mainly if there was an injury and in some cases the insurance company settled that but in areas where the culpability was disputed then the court had a role in providing financial remuneration to the accident victim (Interviewee 7).

However, the parental demand for services for children with special needs has dominated the role of the courts in respect of education matters in recent times according to the interviewees:

When you see some of the cases that parents have brought to the courts about educational provision and additional services for children with additional need and all of that, obviously some parents feel the system is not delivering for their children and they are advocates for their children (Interviewee 2).

I suppose court involvement in education matters has been most evident in the area of special needs where parents feel the State has not provided adequately for their young people and the State has intervened there through the courts (Interviewee 4).

In relation to special education people had to fight legally to get rights for their children (Interviewee 6).

The volume of special needs cases in the court diminished after Micheal Martin acknowledged the need for provision for children with special needs. Also the role of NEPS would have adjusted around that time too to ensure that provision would be in line with the diagnosed needs of pupils (Interviewee 1).

The biggest contribution that the courts have made in the last thirty years has been in the area of special needs (Interviewee 5).

Interestingly, Interviewee 5 uses the word ‘contribution’ in reference to the role of the courts. This echoes the contribution of other interviewees, who give a practical example of the contribution of the courts:

I am sure the courts probably should have a role. It struck me, as I was on the website for the Ombudsman for Children, that we do not have an Ombudsman for parents. I suppose the question again is who advocates for parents. I think the courts should have a role in that regard (Interviewee 10).

From a school manager’s point of view the courts are being very beneficial in addressing issues of process, procedure and natural justice in the system as implemented by the Department of Education and Skills. That has been a very positive development and has been very helpful (Interviewee 8).

The submission of Interviewee 8 above contrasts with the negativity attached to the comments of other interviewees in respect of the role of the courts:

If someone is going to court there is a problem (Interviewee 4).

The presence of the court in the education system is something to be avoided (Interviewee 7).

Things end up in court because there is a disagreement about where the money should be spent and it always comes down to money (Interviewee 1).

There should be a limited role for courts because I think if people have to go down that road it is very sad (Interviewee 6).

The negativity surrounding the involvement of the courts in education matters is paralleled by a cynicism with regard to the limited role available to the courts in circumstances where the prevalence of precedent in the Irish court system is paramount:

There has been a couple of cases recently of parents of autistic children demanding their constitutional right to education; they are on a highway to nothing because what they are looking for is very expensive and the State is never going to give up resources knowing that it is going to open the floodgates (Interviewee 3).

The comments of Interviewee 3 in respect of precedent and pattern are consistent with the viewpoint of Interviewee 11; however she considers the matter from another angle and maintains that parents themselves have the potential to ‘open the floodgates’:

I do think the law has influenced provision for certain categories and groups of children because of the awareness of some parents in relation to their rights. In the main it probably takes educated parents to take the first step towards the emergence of a body of case law. Then other parents will take cases because they have seen a pattern emerge (Interviewee 11).

Notably Interviewee 11’s comments are consistent with the emergent theme transcending the education interviewee transcripts, that parents themselves are lacking the awareness to formulate and forge facilities to pursue their rights. Certainly it appears, notwithstanding whether the majority or minority of parents have the assertiveness to do so that in order to vindicate parental rights ‘parents are forced, for want of a better word, to take the State to court’ (Interviewee 5).

Interviewee 5 equates the vindication of parental rights through the legal system with a lack of pro-activity by the State in respect of policy development: ‘The Department of Education just did not move in terms of policy development and the result was that the only port of call left for parents was the courts’ (Interviewee 5). Some interviewees address the adverse effect that the role of the courts has on educational policy:

I would have had concerns in relation to the courts being involved in determining education matters. Over the years the courts had significant influence with regard to the allocation of funding in the whole special needs area; looking back at that time now, there were other children that were maybe disadvantaged by the fact that the courts focused so much on those with special needs. Fundamentally, there needed to be an improvement in the context of children with special needs but I would have a concern that funding was allocated according to the wishes of the courts rather than from best education practice (Interviewee 11).

I suppose usually the kinds of resources for special needs children that come before the court are absolutely enormous. It really pertains to an equality issue; the funds have to be applied appropriately to provide an equality of education for all children. The challenge is in meeting the human rights and other needs of children with special needs but also meeting the needs of the rest of the school community (Interviewee 1).

In key note judgments like O'Donoghue and others the courts laid down policy, they determined education policy and whether it was the right one or not, I am not sure. I think it would have been far better had the Department of Education been proactive at the time and developed a policy that was not created in an adversarial context akin to the court context where policy is made (Interviewee 5).

The fundamental theme traversing the transcripts with respect to the role of the courts is that a lack of assertiveness from the Department of Education with regard to policy resulted in a situation where parents were forced to navigate the court system to seek direction of policy, notwithstanding that it did not concur with best educational practice, as summarised by Interviewee 11:

The case of an individual child which is brought to court can then open a floodgate in relation to similar other practices. I do not think it is a good thing that the courts dictate to the Department of Education or to education policy makers in the wider context. While I fully respect that parents have the right to take their case to court and to try and follow what is and what would be the best provision for their own individual child; I feel that somewhere along the way there needs to be a guardian of the common good rather than the perspective of an individual child (Interviewee 11).

The interviewees' analysis in respect of the role of the courts extends to the role of the law and legislation in education matters.

5.1.10 Role of the Law and Legislation

In respect of the role of the law and legislation, the interviewees express a concern in respect of the adverse impact of the legal demands on schools:

There are so many legal requirements on schools with regard to policies and procedures that there is a huge administrative load in every school (Interviewee 4).

We are spending more and more money on legal advice for the boards of management of our schools on an annual basis. Schools are becoming an increasingly litigious environment (Interviewee 8).

I think schools often feel that they are put upon really in terms of meeting all of the many policy requirements and legislative requirements that they face (Interviewee 10).

The amount of legislation that has grown up around education is incredible. It has just become very complex and I think people are very wary of it; I think what has grown up in teaching is a level of detail in terms of procedures and practices that would intimidate the non professionals. Take the example of the principal teacher who is expected to know every detail and if the principal teacher handles a parental complaint incorrectly they can be hauled into court for not following procedure (Interviewee 5).

However, Interviewee 9 and Interviewee 7 purport that schools are adequately prepared and have accommodated the legal demands placed on them:

Schools are more alert and much tighter in their procedures and are able to prevent litigation as a result (Interviewee 9).

Most things are common sense and most parents are sensible and teachers are so clued in to the rights of parents at the moment that, through school policy, there is no practice in the school that would be open to legal challenge because principals, in particular, have got so politically correct where constitutional rights are concerned. They are getting ongoing advice through seminars and so on so; there are not too many loopholes where the schools will be wide open; and where schools may not be familiar with certain policies yet, they are certainly getting there. With the Whole School Evaluation, schools have to be in line with modern thinking; the system would not work otherwise (Interviewee 7).

Notwithstanding this statement, Interviewee 7 highlights a potential area of concern for schools in the litigation context:

The whole area of mandatory reporting and what the agent for child protection should do in a school is an area where schools need huge advice and legal protection because they could be wide open (Interviewee 7).

The language utilised by the interviewees in respect of the role of the law on education, as embodied by Interviewee 5's use of the phrase 'hailed into court', is testament to a sense among the education interviewees that they perceive themselves and indeed their profession to be accountable to the law and legislation. A potential issue surrounding the level of concerns expressed in this regard is the perceived lack of knowledge that education interviewees display in respect of the law. This conclusion is drawn from the italicised language presented below; while the context of the statement is not presented, the quotations are important in order to assert the detail of the observation, in respect of a perceived lack of knowledge of the law, paralleled in many statements with an element of justification:

I do happen to know that it is in law that the deeds of assignment attached to boards of management allow the denominations to protect their own ethos (Interviewee 4).

I am not a legal expert, I want to say that (Interviewee 2).

I cannot quote Bunreacht na hÉireann (Interviewee 10).

The rights of parents are enshrined in the Constitution; now *I am not going to quote it all* (Interviewee 1).

I am struggling a bit with the use of the legal terms (Interviewee 3).

I am *aware* of UNESCO *without being able to list* the charter (Interviewee 4).

There was a theme evident in the transcripts whereby the interviewees asserted their viewpoints on the Education Act, 1998, notwithstanding their notification earlier in the interview in respect of their lack of legal expertise. Notably the only piece of legislation referred to by the interviewees was the Education Act, 1998:

The Education Act is a fine document but it does not reflect the reality of parents as partners in education (Interviewee 3).

In the Constitution and in law you are talking primarily about the Education Act (Interviewee 1).

It (Education Act, 1998) was the first piece of legislation that really affected Irish education; prior to that there were just circulars and rules for national schools so they would not have the same effect as a piece of legislation. The Education Act is wonderful; I think it was so welcome because it actually outlines in all the different sections the role of the board, the role of the Inspectorate and the parents role (Interviewee 6).

The Education Act is still not bedded down as there are whole chunks of the Education Act which are now being tested in the courts and being found wanting, particularly at the moment Section 29, the appeals element (Interviewee 8).

However, Interviewee 5 expresses a viewpoint that ‘the legislation has empowered many parents’. This contrasts with the belief of Interviewee 3 that there is no outstanding legislation necessary to promote the role and rights of parents: ‘I do not think it is law we need, I think cultural change is necessary’ (Interviewee 3). Having addressed the law and legislation as a current stakeholder in the partnership process, the role of the State, as defined by the education interviewees, is now presented.

5.1.11 Role of the State

The role of the State in respect of education is considered by the education interviewees to be embodied by the Department of Education, including teachers and the Inspectorate.

5.1.11.1 Role of the Department of Education and Skills

In order to consider the role of the Department of Education and Skills the interviewees define it and trace its historical changes. Initially, the question posed by Interviewee 11 is addressed: ‘People talk about the Department of Education and Skills but who are they?’ Interviewee 11 provides an insight into her perception of the role of the Department of Education and Skills:

There are various different sections that look at everything from accommodation to social inclusion to the various different areas to looking at prioritising projects. Within those sections there are courier civil servants; they move from defence to education to whatever else. Within that context there is a senior management team who are informed or become informed or seek to be informed.

Interviewee 5 traces changes within the Department of Education and Skills over the last twenty years in order to provide a context for the analysis of their role and observes that:

The Department of Education and Skills has done a pendulum swing since they micromanaged the system twenty years ago. They outsourced to the NCCA, NEWB, Council for Special Education but they also outsourced to boards of management and principal teachers (Interviewee 5).

There are two insightful and important observations to be taken from Interviewee 5’s submission in respect of the role of the Department of Education and Skills. Firstly, he submits that the reason behind the outsourcing is fear of legal implication: ‘The Department now sees themselves as having a hands off approach and no direct role so that if something goes wrong in a school they are not to be sued or to be called to account on it’ (Interviewee 5). The second point raised is that parents are not mentioned as recipients of the Department’s outsourcing scheme, notwithstanding their constitutional positioning. Further to the ‘supervisory role’ (Interviewee 5) of the Department of Education and Skills, there is

an extension of the role, according to the education interviewees, to determine the minimum standard of education.

5.1.11.2 Minimum Standard of Education

In respect of how a minimum standard of education should be arrived at, the interviewees put forward various mechanisms for determining who ultimate responsibility should lie with including delegation from Department of Education and Skills and analysis of case law:

The minimum standard is set by the NCCA because the NCCA are the curriculum body that has been charged with drawing up the curriculum (Interviewee 6).

There is a lot of discussion relating to what is a certain minimum education and I suppose within that context some of the initial cases which influenced education were tremendously important - for example the O'Donoghue case and the fact that there was in that case quite a significant focus on what is the meaning of education and the meaning of education as against schooling (Interviewee 11).

The State then has a caring role or a supervisory role in making sure that if a parent opts out then the child is receiving a minimum standard; I would call that a care role rather than anything else (Interviewee 5).

Interviewee 5 further highlights a potential conflict in the system:

Sometimes there is a conflict where parents do not want children to learn certain things where the State is insisting that they be taught certain things. That is where, I suppose, the courts or the Department of Education step in and make a judgment call on what is in the best interests of the child; given that there are different interpretations of what is best for the child (Interviewee 5).

Interviewee 1 summarises the position of the State in education:

Unlike a lot of countries the State does not directly provide the education system, it provides for the education system and 'for' is the important word. That sets the scene for the dynamic that goes on. The Department pays teachers, it funds the system, it pays for schools through capitation, it devises and provides and updates the

curriculum and crucially then it provides the Inspectorate to monitor all of that system (Interviewee 1).

The role of the Inspectorate is important in this regard as some interviewees perceive their role as one which seeks to resolve the conflict espoused by Interviewee 5; other interviewees identify the many roles undertaken by the Inspectorate.

5.1.11.3 Role of the Inspectorate

The interviewees ultimately conclude that the Inspectorate is charged with maintaining standards in schools:

The Inspectorate makes up part of the Department of Education and informs policy. There needs to be a role for the Department of Education in monitoring and evaluating what is happening in schools and the Inspectorate undertakes that role. I think the Inspectorate in that regard provides a crucial role to the Department of Education because it is the eyes and ears of the Department (Interviewee 11).

The Inspectorate, on behalf of the State, working through the Department of Education and Skills under the Minister, is the evaluator of the system. It has a role in ensuring that high standards are maintained in what is delivered to young people in our schools (Interviewee 4).

The Inspectorate is very important because it is charged with seeing that standards are achieved (Interviewee 6).

The Inspectorate is the outside agency for the Minister to look at the whole and what is happening in the school; and it is not just curricular as they look at the whole management of the school and consider how the board of management is managing the characteristic spirit of the school (Interviewee 6).

However, Interviewee 5 expresses a concern that the Inspectorate's role of maintaining standards has adverse impact for advisory services to schools and policy formation:

The Inspectorate has gone from an advisory and supervisory role to just a supervisory inspectorial role. The problem is that there is a breakdown between the centre and the

schools around the periphery in that the Inspector used to be the link between the Department and the school. We can argue about how effective that link was, but the link does not exist now and when things are going wrong in schools and are not addressed by unannounced Whole School Evaluation; then they are not addressed.

Interviewee 1 presents the history in relation to the policy pertaining to the Department of Education and Skills in this regard:

The Department was consumed with the day to day and service provision and not devoting enough time to the policy end of things. The establishment of the agencies and the regional offices was to get the day to day service provision out there in an organised way and to leave the core work of the Department around developing policy to set the agenda for those agencies rather than the other way round. So it was really to create, not a separation, but a distance between policy formation and service provision because that is the way it should be from a good governance point of view (Interviewee 1).

Notwithstanding the concern previously cited by Interviewee 5, in respect of the emergent role of the Inspectorate, there are no contradictory viewpoints in respect of the role of the Department of Education and Skills. However, differing viewpoints are outstanding in relation to the role of the Catholic Church in the education process.

5.1.12 Role of the Catholic Church

The education interviewees set out the role of the Catholic Church in a didactic factual manner:

The church still has an enormous role in the education system as a whole. The church is the Protestant and Catholic institutions involved in ninety eight per cent of our schools and that mere fact of ownership bestows on the Catholic Church a huge and powerful influence on the education system (Interviewee 8).

The church owns about eighty nine percent of the schools. Under any diocese the bishop is the owner of the school property and he is the official legal employer of the

staff in the school; the board of management run the school on his behalf. The board of management is often called the employer but in fact it is not; it is in proxy for the bishop. So the bishop appoints the board of management and it is sanctioned by the Department but essentially the bishop is the employer and the owner of the school (Interviewee 9).

All of the Irish education system is provided by private patrons and that is very unusual. I suppose the challenge there is to make sure that it works equitably (Interviewee 1).

Well it is not my view, it is just a fact. The church, as in churches; Catholic Church, Church of Ireland, Muslims etc. have management of their schools within their control or have patronage of their schools (Interviewee 4).

It is well documented; I mean the vast majority of primary schools are under the patronage system (Interviewee 2).

The interesting theme emergent from the interviewees' comments in respect of the role of the Catholic Church in the education process is that the interviewees seem to distance themselves from the issue and do not purport to personalise their viewpoints. This is evident from the italicised language in the quotations from both Interviewee 4 and Interviewee 2 above. However, one interviewee presents her personal opinion in this regard:

The Catholic Church are involved in faith based schools and they have a right to open schools and establish schools and that right should be retained, as with every other body (Interviewee 6).

The reasoning behind both the personal comment made by Interviewee 6 and the personal distance executed by other interviewees in respect of the role of the Catholic Church in education seems to stem from the changing nature of the role of the Catholic Church presently. This phenomenon is accepted by all interviewees and summarised by Interviewee 11:

I suppose if you look at primary level and if you look at ninety three per cent of schools in the system that remain under the patronage of the Catholic Church, definitively there is no doubt that it is changing (Interviewee 11).

Interviewee 11 submits that the change is happening internally in the Catholic Church:

To be fair to the Archbishop of Dublin he is the one that suggested to the Department of Education that, in the context of the development of new communities, the expectation should not be there that the Catholic Church would open the new schools. I suppose the response from the Department has been the development of the new pilot community national schools under the VEC (Interviewee 11).

However, the above extract needs to be balanced by the advice of Interviewee 5: 'We need to be careful; what is happening in the Dublin Diocese might not necessarily be replicated around the country'. In any event it is interesting that Interviewee 11 surmises that the Department of Education and Skills should respond to the changing landscape presented by the Catholic Church notwithstanding the number of stakeholders in the education process and partnership. However, the changing landscape of the Catholic Church is not a new phenomenon and the interviewees point to new sectors of school which emerged with the passing of the previous domination by churches:

It is a changing landscape, there is no doubt. I suppose if you go back to the development of the Gaelscoileanna and Educate Together there is no doubt that, in response to the needs of a more pluralist society, we have the development of new forms of patronage (Interviewee 11).

You have got the gaelscoileanna as another sector and then you have Educate Together, they are responding to the change in the role of the Catholic Church (Interviewee 2).

The interviewees set these comments against the backdrop of tradition and culture:

Traditionally there was a whole development which was quite common in this country around the provision of education and health, whereby the different denominations were the patrons and developed the system, a system which was financed in the main and to varying degrees by the State (Interviewee 2).

If you look at the role of the Catholic Church in education there is no doubt that the church in the past provided a very significant support to the State in the context of the development of both primary and secondary schools (Interviewee 11).

Interviewee 11 exposes the theory that the church were supporting the State, thereby advancing a concept that the State is the dominant stakeholder being supported by the Catholic Church. It is interesting that parents were not identified as the educator whom the church was seeking to support through denominational education. Interestingly, Interviewee 11 considers parental perception of this process:

It is probably a concern to many people that the education system developed in the context of denominational lines and in that context that the predominant denomination is Catholic. To be fair though there was research done last year that would indicate that significant numbers of parents still want their children to attend Catholic schools. Equally, I have quite an amount of experience in working with Church of Ireland and other denominations; there is a very strong ethos in those schools and it is still something that parents are, in the main, seeking and will want to retain (Interviewee 11).

Parents are usually not hung up on the religious education story but if that becomes the catalyst for parental involvement it does not matter what it is. In the same way as there is a whole debate about sacramental preparation and religious education; largely it is not an issue but when it does become an issue suddenly lots of parents become involved (Interviewee 1).

Moreover, in this regard Interviewees 1 and 7 state that:

It has taken a hundred years for the system to develop, it is not going to change overnight and you certainly do not want to do things in a rush because you are dealing with children and children's lives and their education (Interviewee 1).

People may not realise that the reduction of church influence in schools is not going to be as great or as quick as they thought (Interviewee 7).

Similarly, Interviewee 5 presents the same theory but in the context of church property:

The church is not the all powerful force that it used to be but it is still a major stakeholder in terms of owning most of the property and if it comes down to a row

over property rights there could be difficulties. An Archbishop might want to hand over a school but the local community might not allow it; so there will be challenges (Interviewee 5).

Interviewee 5 presents a further challenge, namely the role of the Catholic Church in teacher training:

I mean the five established colleges of education are all denominational; Hibernia is the exception. Teachers should be taught to be able to work in a variety of settings regardless of where they train. There have been big changes with regard to teachers who trained in Scotland or Wales or England. Some of them trained in Catholic colleges all right but the vast majority did not and they have brought back different experiences. If they want to work in a Catholic school they still have to have the Catholic cert of course; that should have been addressed a long time ago (Interviewee 5).

In this context the role of the colleges of education is addressed and analysed.

5.1.13 Role of the Colleges of Education

Interviewee 2 seeks to highlight the importance of the role of colleges of education to influence student teachers' understanding of the role of parents in the education process:

If you think about the colleges of education, they are educating and forming the next generation of teachers on an ongoing basis, so obviously they have a hugely influential role in terms of how young teachers coming out view the role of parents (Interviewee 2).

However, there is a huge discrepancy in opinion in respect of the structure of the Bachelor of Education course:

There is nothing in the teacher training college on what the role of the parents should be; it should be in the B.Ed. in year one in Mary Immaculate or in St. Patrick's College (Interviewee 3).

I suppose they should be doing a module on the role of parents because an awful lot of teachers come out of training college and think that they can be quite dismissive of parents and it is just from lack of understanding and lack of knowledge (Interviewee 6).

Parents who worked with the home school coordinator come to speak with the students in education colleges so they actually hear from parents how important it is for them in the context of the fact that the school is a welcoming place and that they as young teachers will have a role in encouraging parents to get involved in their children's education. It is part of professional development; the general role of the parents is outlined on staffs and in colleges of education (Interviewee 11).

There is a manifest difference of understanding in respect of the Bachelor of Education Degree content. This is paralleled, however, by a broad spectrum of submission pertaining to the dominance of particular stakeholders in the partnership process.

5.1.14 Dominant Stakeholders in Education

The approach to establishing the dominant stakeholder in the education process is dependent upon what the education interviewees equate with the concept of domination or control of education. Many viewpoints are expressed in respect of funding, school property and the common good; culminating however in a shared sentiment that the State is the dominating force in Irish education, which naturally raises issues in relation to the prominence of parents in practical terms, notwithstanding their constitutional position.

The interviewees cite reasons behind their assertion that the State is the dominant stakeholder in the education process:

The State has assumed the responsibility by virtue of having set up schools (Interviewee 4).

The schools are owned privately and they are managed privately but financed publicly by the State (Interviewee 9).

The State is probably in the lead role because whoever is paying for things tends to be able to control, but it is a partnership process (Interviewee 1).

The State obviously is the provider of an education and its duty is to see that there is finance provided and that the proper policies are implemented so they have their financial role (Interviewee 7).

The State pays for education, so the State is the funder. We have this almost schizophrenic arrangement in Ireland in which the board of management of a school is the employer of all staff operating in a school but only directly pays the caretaker and the secretary. So the State pays all salaries in the system. As a result of having that power to withdraw recognition or withdraw funding it imposes a Byzantine pile of regulations and circulars controlling the operation of schools (Interviewee 8).

Moreover, Interviewee 8 details the legal picture resulting from the concept of what he describes as 'the State's ability to extract itself from direct legal responsibility, to extract itself from direct ownership':

I think even from a legal point of view you can see a whole succession of examples where that contradiction has proved to be extremely unhelpful. I mean the most recent being the recent Louise O'Keeffe case; this situation where the person who has paid someone's salary from the very first moment of someone's career to the last has no legal responsibility whatsoever for their actions.

Interviewee 8 traces the historical origin of the concept:

From the early years of the Irish State there was a policy on one hand to bestow enormous responsibility on the churches for education and in return for the State not having to provide a proper state system of education for the populace. Essentially that relationship is falling down (Interviewee 8).

Further detailed analysis of the breakdown of the relationship between church and state is presented:

There is no great conflict between what the church wants; the church wants over time to remove its front line responsibility whilst maintaining its influence. The State over

time wants the church to remove its front line responsibility whilst still providing buildings, premises, facilities, resources and staff (Interviewee 3).

There is this vast amount of real estate that is hugely valuable. The State is in no position to be able to acquire that except by a change in the Constitution, in almost a Cromwellian way. It would take a raft of referenda in order to empower the State to acquire that space. So we now have the emergence of a very unhealthy series of compromised solutions which could be extremely negative for the future of the system (Interviewee 8).

The opinions expressed by the interviewees in respect of the changing role of the Catholic Church and the potential perceived effects on the current education system ultimately refer to a shared system between church and state which benefitted both bodies. Other interviewees perceive the various stakeholders to share a more equal role in terms of power in the education process:

I think at the moment it is a joint role; it is very much shared; parents understand that schools are there; they can send their children to them. The State expects parents to send their children to the schools so I think it is a joint responsibility (Interviewee 4).

There are different players in the education process and they each have their own emphasis and different responsibilities. Parents are the primary educators, they do have a role, but there are other issues at play (Interviewee 1).

Fundamentally, the Department of Education holds the purse strings so the actual distribution of monies that the State has in the context of education comes through the Department. I do think the Department to be fair is informed by the church, by the law, by parents, by unions and I do think all of them have inputs and I think that, at times, that input can be stronger in one context or another (Interviewee 11).

I would say that a consensus has been arrived at between church, state, teachers and the wider society (Interviewee 3).

However, Interviewee 11 and Interviewee 7 both raise a concern pertaining to the sharing of power amongst stakeholders and attach a responsibility to the role of the State in education to protect the common good:

Somewhere in the midst of shared responsibility is the combination of concern that I would have that everyone is watching their own patch and not necessarily looking at the common good and fundamentally the group that has to look at that common good is in fact the Department of Education and Skills (Interviewee 11).

The whole of society depends on the education system running well because the rounded citizens of tomorrow depend on the foundation they get in school. It is in everybody's interest in society to prevent anarchy and chaos later on (Interviewee 7).

I suppose one of the things that would be very important is that parents need to be brought from concern in relation to their own child to the more global concept of the common good (Interviewee 1).

Interviewee 6 suggests a further reason why equality cannot exist between the stakeholders, namely because of the variance of roles undertaken by the stakeholders:

There cannot be equality because some would have more important roles but a different type of role. I think everyone has their own role and I think everybody knows their own boundaries too (Interviewee 6).

Ultimately, there is juxtaposition in opinion between the interviewees in terms of who embodies dominance in the education process punctuated between the Department of Education, as indicated above, and the courts:

Obviously the courts are hugely dominant; the law of the land is the law of the land so that is the ultimate authority in education (Interviewee 8).

In terms of parental authority, a theory is purported by interviewees that parents delegate authority to others to educate their children and the State has responded to this:

In theory what parents do is allocate responsibility to people for education, so teachers, principals, educators are given responsibility for doing that; I suppose the difference between the theory and the practice is that parents allocate that responsibility (Interviewee 3).

Obviously under the Constitution parents are the primary educators so the system is one that the State has developed to assist parents in being the primary educator (Interviewee 2).

However, Interviewee 11 asserts that parents are the least powerful group in the education process:

I suppose within the wider context in relation to the church, INTO, the law and the Department; I would say all of those are probably stronger than parents unless parents take their case through the legal system (Interviewee 11).

I would imagine that if push came to shove that teachers have the main right; they would have the right to decide on a particular type of education. For instance, parents have the right to decide whether to take part in a religious class or not or whether to go to a church ceremony connected with the school but at the same time whatever their rights are, in most cases they have to fall into line with what the main school policy is (Interviewee 7).

Ultimately, it appears that the law empowers parents and raises their status from the least powerful stakeholder to a dominant lobbying group and a practical example of this sentiment is exposed by Interviewee 5:

I think parents are a powerful lobbying group and they have shown it in certain areas; the multi-denominational sector was one area where they got together and lobbied, special education is another (Interviewee 5).

From the submissions of the interviewees, it is clear that the parents are the least powerful grouping in the primary education process; however if a critical mass of parents form a lobbying group or pursue a legal case they are empowered into a position of primacy in the process. In this regard, interviewees highlight their own desire as well as parental desire for parents to be more empowered in terms of seeking out their preferred choice of school for their children:

I feel that parents as a body, as a group should be able to form the kind of education system that they want and that they have a role and the education system must listen to parents in the context of the development. We have seen that more recently in the context of new forms of patronage, the development of gael scoileanna and also the development of Educate Together schools. There is a role in education for parents at all levels within the system (Interviewee 11).

More parents will become aware of their rights, therefore more parents will become more involved; parents will collectively demand a greater voice (Interviewee 3).

However, Interviewee 1 raises concerns in relation to the representation of parents broadly in this regard:

Sometimes there can be a very vocal minority of parents who can skew an issue. The same issue is true in relation to the religious education story; now undoubtedly it is an issue but there is quite a vocal group pushing that issue, if you were to listen to that minority you would think that the country was at war with itself. There is nothing like a difficulty in a school to get the interest of other parents; any time there is an issue in a school it renews the interest of parents (Interviewee 1).

Notwithstanding the sentiment expressed by Interviewee 1, the range of issues existing for parents is ultimately expressed in a sentiment that parents have not progressed into a position of primacy in the education sphere as outlined by the comments of some of the interviewees below:

The structure of education, specifically at the primary level in Ireland, has now become significantly acrostic and has lost engagement with the actual realities of the social fabric and parental demands in education (Interviewee 8).

I suppose, to be honest with you, I would be disappointed that maybe the role of parents in education probably has not developed as far as maybe it could have (Interviewee 1)

5.2 Analysis of Education Interviewees with reference to Chapters One and Two

5.2.1 Educational Partnership

Educational partnership with parents is a theme that features prominently both in the literature surrounding primary education and in the transcripts of the education interviewees in this study. Much of the research in the Irish context on parents in the primary sector focuses on promoting parental involvement in primary school settings and supporting parents and families in their pivotal role as primary educators (CECDE, 2006). The main focus of the debate surrounding educational partnership centres around the extent to which parental involvement in schools is promoted and supported, coupled with an exploration of the attaching benefits for children's education in the process and this is certainly borne out in incidental comments made by the interviewees. Advantages which accrue from increased parental involvement in the education of their children have been well documented. However, the purpose of this study is not to rehearse the detail of that debate but rather to address a sub issue arising from the hypothesis which seeks to explore the understanding of educational partnership with parents from present major stakeholders in primary education in Ireland.

The overriding emergent finding from analysis of the education interviewee transcripts with regard to partnership with parents is that the interviewees express an awareness that legality attaches to the principle of partnership; a trend which is not matched in the literature pertaining to partnership. The comments made by the interviewees in respect of the entanglement of the presence of the law and the principle of partnership are stated in a forthright, didactic fashion; a theme which transcends the interviewee transcripts in respect of

any commentary pertaining to the law. The education interviewees consistently display a keenness to demonstrate their awareness of their perception of the role of the law in educational matters. The impact of the law in education is paralleled within the literature by a statement of Hogan and Whyte (2003) that interesting developments will continue to occur in branches of the law concerning education.

The interviewees extend the legally recognised principle of partnership to explain the standing ascribed internationally to Ireland's partnership arrangement and they consider the international recognition of Ireland's partnership structure with parents to be conclusive in terms of the benefits of the partnership approach. This is reflected in the literature concerning the primacy of partnership with parents, as evidenced by Ireland's response to the United Nations Declaration on the Rights of the Child (Government of Ireland, 1959, p. 35) which states that: 'In Ireland it is recognised that the promotion of parental involvement in the education of their children is an essential element of education policy and practice'. Indeed, academic commentary also heralds the pertinence of the merits of partnership along with its cardinal standing as highlighted by Bastiani (1995). Interestingly, the first evidence in the literature of the benefits of partnership can be traced to the 1990s according to Rodd (2004) and both the literature and the education interviewees consider the reasoning behind this by tracing the history of partnership.

5.2.1.1 The History of Educational Partnership

Walshe (1999) states that for decades much of the debate about Irish education was dominated by issues of structure, ownership and control of schools, in contrast with the

current climate where the principle of partnership is firmly rooted in the educational landscape. The interviewees provide detailed analysis of how the phenomenon described by Walshe (1999) emerged and they trace the evolution of partnership in Ireland and reflect on a historical period from the 1950s through to the 1990s, where partnership was limited until the introduction of the 1999 curriculum, which Interviewee 10 considers to be a 'watershed because there was partnering in the process of developing it'. Other specific educational events which embody manifest change in favour of partnership with parents are highlighted by the interviewees and include the introduction of transport to post primary schools, the abolition of corporal punishment and the change from the 'unmerciful' (Interviewee 7) school climate and severe societal climate. Interestingly, each of these examples reflect an attitudinal shift and this change in mindset was reflected in the change of structural arrangements and are cited by the interviewees to include the introduction of the Home School Liaison Scheme, boards of managements and parents' associations. Having examined the evolutionary process surrounding partnership and its historical underpinnings, the commentary of the interviewees and the literature shifts to analysing the level of partnership that exists today.

5.2.1.2 Current Status of Partnership

Notwithstanding the international recognition ascribed to the partnership arrangement in Ireland and the consensus in the literature detailing the benefits of the arrangement, it is interesting that the education interviewees do not achieve consensus in respect of the current status of partnership with parents. Moreover, there is an emergent contradiction between the primacy of the concept of partnership and the purported deficiency of the translation of the

theoretical principle into an equally strong concrete programme of parental involvement and partnership.

Whalley (2000) proposes that the contradiction between the theory and the practice emerges as a result of the difficulties associated with discerning the extent to which partnership is arbitrarily being asserted, in circumstances where families and schools cannot avoid some involvement with each other arising from the close link that exists between the nature of the two social institutions. Moreover, it is definitively acknowledged in the literature that parental participation, involvement and partnership emerged at some level as a result of the inherent natural institutional links of home and school.

The difficulty espoused in the literature in terms of extracting the precise nature of partnership is manifested within the education interviewee transcripts in respect of the interviewee analysis of the term 'natural educator' utilised within Article 42.1. The interviewees essentially concur that parents are naturally the primary partners in the education process during the early years before the children engage in the formal school process. However, once children embrace the school system, the State assumes the role of primary partner or indeed primary educator. Therefore, the role of the parent diminishes with the primacy of the role of the State in education, and many of the interviewees expose the importance of this transition in order to protect the common good, a phenomenon which Bridges (1994, p. 73) labels as 'the triumph of the individualistic ethos of collaboration in the interests of general welfare'. Notwithstanding the power shift in the partnership arrangement, parents still retain the power to act as primary educators by making decisions to execute withdrawal from certain subjects according to the interviewees. However, academic

commentators propose that parents themselves need to acknowledge the importance of their role as a child's first educator and not automatically abdicate their responsibility once a child enters a pre-school or school setting (Smith, 1994). In this regard, Gaire and Mahon (2005) and Spodek and Saracho (1994) place a similar responsibility on education professionals to secure the primacy of the parent in the process.

5.2.1.3 Teachers and Partnership

The interviewees collectively contend that partnership is dependent upon the attitudes of individual schools; however, there is a wide ranging spectrum of viewpoints amongst the interviewees with regard to the attitude of teachers towards partnership. The range in viewpoint pertaining to interviewee perceptions of teacher attitudes towards partnership reflects a continuum from teachers' lack of confidence to potential parental interference with the professional role of the teacher to the fact that teachers have only just secured a position within the partnership process. The resultant finding is that the education interviewees perceive teacher attitude towards partnership with parents to present an obstacle to partnership. This is reflected within the literature with many academic commentators purporting that there are attitudinal and professional differences among teachers who feel threatened by partnership and its encroachment on their professional domain (INTO, 1997). In this regard, Pugh (1996, p. 26) states that: 'Although parents are often described as the first educators, and the rhetoric of partnership is constantly quoted, the research that points to the gains to children if parents are involved in their learning still presents a challenge to many practitioners', an observation which is certainly borne out in the interviewee transcripts.

In circumstances where teachers are unlikely to bear the responsibility in terms of securing the primacy of the parent in the process, it presents difficulties for the transition to schooling and the resultant disposition regarding parental primacy as the primary educator. Ultimately, the difficulties surrounding the proposition, that the shift in the partnership arrangement from the parental role of primary educator to that of secondary educator happens when the child starts school, is that the conceptualisation of the arrangement does not concur with literal definitions of the term partner.

5.2.1.4 Conceptualisation of Educational Partnership

There is a spectrum presented by the interviewees in terms of how partnership is defined ranging from a conceptualisation of partnership as a culture to an agreement of people. An area of commonality between the literature and the education interviewee transcripts is the emergence of a theme espousing the overuse and misrepresentation of the term partnership. In terms of a theoretical conceptualisation of partnership, Bastiani (1995) notes that a striking feature of the term ‘partnership’ is the huge discrepancy between its common usage and any careful consideration of its possible meanings. In this regard, Interviewee 3 states that partnership is ‘used far more than it should be to mean nothing’. Ultimately, a definition of partnership is difficult to arrive at in circumstances where both the literature and the transcripts determine it to be an elusive concept.

5.2.1.5 Definition of Partnership

The interviewees define partnership in terms of the manner in which it operates. This contrasts with the literature whereby partnership is considered to be an ideology. However,

there are certain traits pertaining to partnership which both academic commentators and the education interviewees purport to share. Educational partnership is predominantly defined by academic commentators including Page (2000) and Rodd (2004) on the basis of equality which appears to be the fundamental basis of partnership. This sentiment is shared by Interviewee 3 who comments that the 'equality is to be absolutely implicit', notwithstanding that the term 'equal partnership' does not appear in the final draft of the Education Act, 1998. However, Fine (1997) submits that equal partnership cannot be achieved in circumstances where the State controls the resources.

Other commentators including Bridges (1994) submit that partnership emerges on the basis of mutual respect between parents and teachers; a concept which endorses the sentiment espoused by Interviewee 8 that partnership can be built from mutual respect. The absence of mutual respect emerges as a theme within the education interviewee transcripts and ultimately exposes a disempowerment of parents by perceiving their contribution to be unequal to that of other major stakeholders including the Department of Education and Skills, the teacher unions, the churches and the colleges of education. The viewpoints of the interviewees in this regard expose a principle that parents need to be empowered to be partners rather than being primary partners in the process either naturally or culturally. The emergent phenomenon of the need to empower parents evident in the transcripts, in respect of the partnership process, raises questions with regard to the primacy of the parental role and why other partners in the process are required to empower parents to fulfil a role which the interviewees assert is an entitlement of parents. According to the education interviewees parents need to be empowered by the other stakeholders in order to operate as partners and primary educators; thereby negating the mutual respect and equality that both academic

commentators and the education interviewees herald as being tantamount to the partnership process.

This concept, exposing a perception of a lack of parental ability with regard to being the primary educator or an equal partner, espoused by the education interviewees is a theme which transcends the transcripts and is embodied by the responses of the interviewees in respect of parental lack of knowledge to provide home education. There is a trend across the education interview transcripts determining that parents, by definition, do not have the necessary skills or knowledge to execute their constitutional role as primary educator.

5.2.1.6 Definition of Parents

It must be noted, in the interest of clarity, that the literature purports that parental perception of their role exposes that parents generally do not recognise the extent of provision of educational experiences for their children precisely because it comes under the overarching term of parenting which constitutes many supersets of roles and obligations (Smith, 1994). It is difficult to achieve a specific finding in this regard, in circumstances where the academic commentators unite in a shared viewpoint, that parents are not a homogeneous group; a concept endorsed by Robson and Smedley (1996); Smith (1994); Whalley (2000); Crozier (2000) and Vincent (2006). Notwithstanding the importance of stating that parents are not a generic group, the theme in the literature and the education interviewee transcripts, in terms of parental inability to be primary educator, requires analysis.

A review of the literature indicates that Whalley (2000) and Rodd (2004) assert that the mindset attaching to the need to empower parents reflects a compensatory approach where professionals, believing they are experts when it comes to children and families, actually serve to disempower parents. Interestingly, Katz (1988) considers parents to be a group of people who could be regarded as 'secondary clients' with their children being the professionals' 'primary clients'; and this concept certainly emerges in the education transcripts in terms of how interviewees perceive the gap between parents and professionals to be addressed. In this regard, communication generates an abundance of analysis and is heralded by many of the interviewees as a vital principle pertaining to the operation of partnership.

5.2.1.7 Partnership and Communication

The sentiment in relation to the co-dependency of partnership and communication is summarised by Interviewee 6 who considers communication to be 'kernel to partnership'. The manner in which this communication takes place encompasses school meetings, emailing parents, texting parents and ultimately represents a one way flow of communication. These modes of communication reflect the aim of the communication process which is to empower parents to be capable of partnership in circumstances where the education interviewees perceive parents to lack the ability to be equal partners.

However, the interviewees purport that there is a need to provide information to parents in order to displace the disparity of differing levels of engagement by parents with the partnership process. This concept is endorsed within the Report of the Advisory Group on

the Forum on Pluralism and Patronage in the Primary Sector (2012) which recommends that the Department of Education and Skills should adopt an information and communication strategy with parents relying on ICT (Coolahan *et al.*, 2012). Furthermore, Robson and Smedley (1996) highlight that within the home-school partnership there are unidirectional relationships involving information, contact and involvement, and reciprocal ones that include collaboration and partnership. Moreover, Spodek and Saracho (1994) note that it is difficult to define partnership in a general way because relationships between schools and parents are as varied as the kinds of schools that exist and the populations they serve. According to the INTO (2005, p. 37) 'many parents need advice and guidance as to how best they can support children's learning and look to schools to provide this'. Indeed, this theme resonates across the interviews with many interviewees perceiving parents to need information in respect of enabling them to be equal partners. A commonality emerges between the literature and the education interviewee transcripts in terms of the differences of opinion in respect of who is responsible for the education of parents in order to promote their confidence to engage in the partnership system. The interviewees contend that parents do not perceive themselves to be partners in the education process; again exposing a theme suggestive of the existence of primary and secondary partners in the educational partnership process. This sentiment is reflected by Ball (1994, p. 100) who notes that 'practitioners can help parents recognise that by responding to their children, they are providing appropriate learning opportunities so that parents develop confidence in their role as first educators'. The fact that both the literature and the interview transcripts expose the need to empower parents to be 'first educators' serves to question the existence of partnership in reality. However, this must be counterbalanced by the viewpoint of Dahlberg *et al.* (1999, p. 77) who purport that the model of transferring information to parents fosters a reflective and analytic relationship between parents and pedagogues and concludes that this model is effective as it

is a 'description of democratic practice rather than a means of social control or technological transfer'.

5.2.1.8 Superficial Partnership

Crozier (2000) contends that parental participation is superficial at every level which resonates with the sentiment of Fine (1997, p. 473) who states that partnership is essentially 'moments when parents have a voice but are not getting a hearing'. This concurs with the comments expressed by the interviewees in respect of parental partnership, which expose a theme whereby, although parents and schools operate along a continuum of opportunity for involvement, ultimately this involvement is tokenistic and has not translated into real partnership. It is evident from the comments of interviewees that they are aware of the tokenistic presence of parents as partners and utilise examples of public relations exercises to seek to embody the existence of a partnership arrangement, notwithstanding that parents are merely 'helpers' rather than 'equal partners' Whalley (2000, p. 58). Examples of the public relations efforts at 'placatory partnership' cited by the interviewees encompass parental involvement on a building programme, the provision of sport, support with homework and inclusion in shared reading projects. Spodek and Saracho (1994, p. 226) warn that: 'Programmes of public relations, however, can be counterproductive and lead to frustration and even anger on the part of parents'. It must be cited though that some of the interviewees suggest that parents experience time constraints in respect of their willingness or otherwise to involve themselves in school life. The current situation as espoused by the education interviewees and reflected against the backdrop of academic theories is summarised by Interviewee 2:

I think in general things have changed for the better in that there are more opportunities for parental involvement, whether partnership is maybe a step up, parents are more involved in the life of the school now than they were in the past.

Rodd (2004) makes a parallel observation in this regard stating that although this participation which is advantageous to the school has been increasingly encouraged over the past thirty years, there is research evidence which provides a compelling argument for strengthening parental involvement, from the typically token level to a level of genuine partnership, in any service related to the care and education of young children. Both the academic commentators and the education interviewees purport that many obstacles hinder the grounding of a real and equal partnership and these obstacles generate from parental, teaching and systematic sources.

5.2.1.9 Obstacles to Partnership

The responses of the education interviewees ultimately traverse a range of theories as to why partnership may be hampered; however the most consistent reason cited as an obstacle to partnership, according to the interviewees, stems from parental memory of their school experience; a principle which is endorsed by Smith (1994) who concludes that not all parents are able or willing to be closely involved with their child's education and acknowledges many reasons for this including negative experiences at school and work commitments. Furthermore, Fabian (2002) states that it cannot be assumed that all parents want a close partnership with school, as their amount of involvement will vary according to their circumstances and wishes. This submission correlates with the sentiment of the education interviewees as summarised by Interviewee 5: 'Parents happily play a supportive role in terms of helping the teachers and I think they just want to be informed of what the policies

are in relation to professional areas'. Further contemporary obstacles to parental partnership, which traverse both the academic commentary and the education interviewee transcripts, are cited as market-based obstacles to partnership in the literature and are embodied in the education transcripts in the form of parental choice of education.

5.2.1.10 Market-based Obstacles to Partnership

Theoretically, parents are given with the constitutional right from the State to educate their child according to their own choice of method. This arises from Articles 42.2 and 42.3.1 which prohibit the State from designating any particular type of education or venue for it in defiance of parental conscience and preference and which is borne out also in case law as advanced by *In Re State (Doyle)* [1989] ILRM 277. Gaire and Mahon (2005, p. 1) present the current situation in Ireland whereby 'one of the major preoccupations of new parents is where to send their child to school'. The same concept is espoused by the interviewees in terms of availability of schools in particular areas and ultimately exposes an emergent theme with regard to the impractical nature of the existent right for a parent to choose their preferred school for their child as summarised by Interviewee 4: 'I suppose parents have a right to choose what school their child will go to; having said that you can choose a school but there might not be a place for the child'. In this respect, Farry (1996) also observes that parents cannot insist upon their children attending a particular school that refuses to enrol them. Similarly, O'Mahoney (2006, p. 124) contends that: 'It would be entirely impractical to guarantee parents an absolute right to choose the school that their children are to attend'. Additionally, the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector (2012) affirms that there is no absolute right to a school of one's choice (Coolahan *et*

al., 2012); a principle also borne out in the case of *O'Shiel v Minister for Education* [1999] 2 ILRM 241.

Parental freedom of choice is further qualified by the provisions of the Education Act, 1998 relating to the admissions policies of schools and moreover by the statement of Gaire and Mahon (2005, p. 178) who assert that 'many people are unaware that the Irish Constitution gives parents the right to choose where their child is educated'. The constitutional provision asserting parental choice of education is further curtailed by the lack of choice of school as noted by Glendenning (1999, p. 70) that 'while constitutional theory bestows a wide choice of school on parents, in practice, parental choice is extremely narrow as few alternatives exist to the traditional denominational school', also endorsed by Clarke (1984) and O'Mahoney (2006). Notwithstanding that some interviewees also perceive the school choices available to parents to be improving and many cite the example of the growth of the multi-denominational movement, the derivative issue is that the lack of availability of schools extinguishes what Interviewee 3 describes as the parental 'role of deciding' in respect of education and schooling. The sentiment of Interviewee 3 illustrates the nature of the issue raised by Drury *et al.* (2000) and Bridges (1994), namely that parental choice of school embodies parents as consumers and effectively dictates that their responsibilities are primarily to exercise informed choices regarding schools which will educate their children for them.

The interviewees contend that new school choices will emerge if a decision is made to divest schools; interestingly, Interviewee 1 notes that arrangements have to be put in place for 'divestment to happen the way parents want it to happen' (Interviewee 1). With regard to how this issue should be addressed the interviewees perceive the State to be responsible for

effecting the divestment process; a principle borne out by the State initiation of the Forum on Patronage and Pluralism in 2011.

A further issue surrounding parental decisions around choice of schools is summarised by Bridges (1994, p. 77): 'The concept of parents as consumers effectively means that a dilemma exists in which parents are manipulators of the school system and in competition with other parents for the sake of the positional advantage of their own children'. A challenge facing educational partnership with parents is to construct partnership in such a way that the parent's natural concern for their own children is directed to efforts which also benefit the provision of education in school in a genuinely inclusive educational enterprise: 'Parents need to be brought from concern in relation to their own child to the more global concept of the common good' (Interviewee 11). Spear (1994, p. 231) considers this challenge as one which aims to achieve a balance between 'parental expectations and professional expertise'.

Interestingly, in the discharge of its constitutional obligations under Article 42 the State has enacted the Education Act, 1998, which makes provision in the interests of the common good for the education of every person in the State. In this respect, the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector (2012) purports that: 'It is not always easy for public policy to secure a balancing of rights for all its citizens, but it is incumbent on States to make every effort to do so' (Coolahan *et al.*, 2012, p. 6). Specifically, under the 1998 Act, the Minister has statutory responsibility, inter alia, for the level and quality of education delivered to every person in the State. This bestows the Minister with the statutory responsibility for the education of the child and contradicts somewhat the parental responsibility under the Constitution, notwithstanding that it grants

parents a number of statutory rights and consultative status. The extent of the challenge surrounding the practical realisation of the common good within education rather than parental pursuit of the individual needs of their children is embodied in the debate surrounding parents' rights and the growth of same.

5.2.2 Parents' Rights

The interviewees purport what they consider the rights of parents to entail with many offering practical examples including the right to be involved, to question, to be heard, to be consulted and to receive information pertaining to their child's education. The examples of parental rights proffered by the interviewees collectively present a situation where parental rights centre primarily on the right to be involved and the right to receive information; both of which are arguably secondary rights and are juxtaposed against their constitutional position. This correlates with the literature and in particular the observation of both Spodek and Saracho (1994) and Spear (1994) that parents have been traditionally kept out of decision-making roles in schools. It must be noted that these commentators express a sentiment from the 1990s at a time when educational partnership was in its infancy. However, it is interesting that parental rights, according to the language used by the interviewees, effectively deems parents to have a secondary role rather than a primary role and furthermore extend this secondary role to curriculum issues. This is a noteworthy statement considering that parents have the constitutional right to educate their children but no legal right to determine what that education will entail; a concept manifestly evident from the compulsory premise of the Irish language. However, Farry (196, p. 82) asserts that 'the rights of parents would seem to extend to curricular matters' in circumstances where intellectual education is expressly stated within Article 42.1. This opinion concurs with the sentiment of Interviewee

7 in terms of the Irish language and his submission that ‘the very word ‘compulsory’ is suggestive of a denial of parental rights’.

Notwithstanding the sentiment of Farry (1996) and Interviewee 7, the concept of parental embodiment of a secondary role is consolidated within the legislative sphere in the Education Act, 1998 which requires that parents receive regular periodic information about their children’s progress in school. Interestingly, the Education Act, 1998 is the only Act cited by education interviewees in respect of parental rights. This concurs with the theory of Gaire and Mahon (2005, p. 29) that: ‘Parental rights are scattered throughout the various Acts rather than being tidily gathered together in one place, and so it is not easy to discover exactly what they are’.

It appears from the interviewee transcripts that a culture developed as a result of a lack of parental awareness of their rights, notwithstanding the awareness of parents of children with special needs of their rights. This culture is reflected by Glendenning (2008, p. 429): ‘Parents in Ireland have been dilatory in exercising the full range of entitlements afforded them in the Constitution in regard to the provision of a variety of school types’. With regard to the awareness level of parents in respect of their rights, the interviewees consider parental awareness of legal rights to be increasing as summarised by Interviewee 2: ‘I think perhaps there is a group of parents that are becoming much more articulate and much more knowledgeable about their rights’. Similarly, Bastiani (1995, p. 101) notes that there is ‘considerable cumulative evidence of an uneven but definite spread of changing parental attitudes to and expectations of their children’s schools’. This concept is affirmed by the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector (2012) that

‘contemporary parents are more confident and vocal in seeking their educational rights than former generations’ (Coolahan *et al.*, 2012, p. 53).

The interviewees concur that the increase in awareness of parents in respect of their rights stems from a societal shift in seeking transparency and accountability rather than an arbitrary analysis of parents in respect of their rights, a concept expressed by Interviewee 4: ‘There is a greater break down of barriers in society and between people and figures of authority; in every walk of life now, professional and otherwise, people query and question’.

The emergent theme in respect of a societal culture of accountability transcending parental demands in respect of legal rights with regard to education is clear from the transcripts. Despite the fact that an awareness of legal rights is apparent, a secondary role with regard to the assertion of these rights is manifestly evident to be the expectation level of the interviewees. This inherent attitude of the education interviewees attracts a possible explanation in the literature with Walshe (1999, p. 115) observing that some union leaders ‘believe that the deliberate cultivation of parent power is another example of efforts to curtail the power of the unions by building up another power base in the education arena’. It is clear, that for whatever reason parents are asserting their rights, there is an inbuilt assumption prevalent in the literature that parent power aims to determine the course of education. However, this concept must be contextualised within the sentiment of academic commentators and education interviewees in respect of the role of the other stakeholders in the partnership process.

5.2.3 Role of the Catholic Church in Education

The education interviewees set out the role of the Catholic Church in a didactic factual manner intimating its prominence, influence and patronage. The interviewees conclude that the Catholic Church does not seek to assert its authority or indeed contest the educational role of the State in relation to its citizens. There is much debate and discourse amongst the education interviewees in terms of how the role of the Catholic Church will change in the future and in particular if it seeks to retain its central, albeit arbitrary position, within the education process; a concept which is ultimately paralleled in the Report of the Advisory Group on the Forum on Patronage and Pluralism (Coolahan *et al.*, 2012). A corresponding theme is identified by one of the interviewees in respect of the influence of the role of the Catholic Church in colleges of education.

5.2.4 Role of the Colleges of Education

Interviewee 2 highlights the importance of the role of colleges of education to influence student teachers' understanding of the role of parents in the education process, which correlates with the assertion of the INTO (1997) that when the majority of the teaching force received their initial teacher education the role of parents in education was not as recognised as it is today. Moreover, there is a huge discrepancy in opinion in respect of the structure of the Bachelor of Education course; however this does not attract much analysis within the interviewee transcripts. The interviewees make wide ranging comments in respect of the role of the State in education.

5.2.5 Role of the State in Education

In practical terms, according to the education interviewees, the school becomes a necessary social institution to educate children. This is an obligation being placed on the State by the education interviewees, which has no legal standing in circumstances where the European Court of Human Rights held that Article 2 Protocol 1 does not require the State to provide any education at all but rather confers a right of access to educational establishments existing at a particular time (*Belgian Linguistics Case* [1980] 1 EHRR 252). Moreover, the case law does not concur with the literature in this regard with Harris (1992, p. 62) asserting that: 'The distribution of legal responsibility for the education of children is such that parents have, in effect, a duty to send their children to school, and the State has a duty to educate them when they get there'. This concurs with the opinion of Interviewee 1 who asserts that the role of the State is essentially as an educational facilitator. However, the duty or otherwise of the State to educate is affected by the minimum standard of education.

In respect of how a minimum standard of education should be arrived at, the interviewees purport a range of mechanisms for determining where responsibility should rest regarding the provision of a minimum standard ranging from the NCCA to case law to the Department of Education and finally to the courts. The submissions of the interviewees are interesting in light of the fact that what a certain minimum education will constitute has not been defined either in the Constitution or in statute despite the Supreme Court granting the State, acting in its legislative capacity through the Oireachtas, the power to define this phrase (*Re Article 26 and the School Attendance Bill* [1943] IR 334). It is a stark finding that the education interviewees purport that the courts have a role in determining that the minimum standard is

achieved. This is interesting in the context of the acceptance of the education interviewees that the courts have a role in effectively determining education policy.

The concept of a minimum amount of education relates to the age limit at which children must attend school, which has not been changed by legislation since 1926. This indicates that parents who are sending their child to school at the age of four are vesting the State with the interest of educating the child two years prior to the legal age of school attendance at six years old. The fixing of an age at which children must attend school could arguably embody a contradiction with the constitutional position of parents. However, Spodek and Saracho (1994, p. 205) suggest that the requirement of school attendance ‘grows as much from the cultural need to maintain the social order as from the personal needs of children and their parents’ which correlates with the sentiment of the interviewees as represented by Interviewee 4: ‘The law of the land says they have to go by six but traditionally children have been going to school from four years of age’ (Interviewee 4).

In respect of the role of children in the process of school attendance, Devine (2003) notes that traditional concepts of children’s rights and schooling in Ireland have tended to focus on children’s right to schooling rather than on their rights as a group within the school partnership itself. In this regard, the concept of a minimum amount of education extends to commentary pertaining to the rights of the child. The education interviewees assert that the current construction of the Constitution ‘raises concerns over the balancing of rights between parents and children’ (Interviewee 11); a sentiment also borne out in the literature by Glendenning (1999, p. 72): ‘Possibly the major disadvantage of the constitutional bias towards parental autonomy has been the reluctant lack of statutory protection for the child’s

right to education'. The principle of parental priority over the rights of the child is also manifested in case law and in particular by the Supreme Court in *Doyle v Minister for Education* (Supreme Court, Unreported, 21 December 1955) when it ruled that s10(1)(d) and s10(1)(e) of the Children Act 1941 infringed parental rights under Article 42.

The education interviewees seek a change to the Constitution in this regard, with the interviewees exposing the need to balance the rights of parents and children with many calling for a referendum on this issue, although there is a mixed response in terms of its inevitability. Ultimately, the sentiment of the literature correlates with that of the academic commentators interviewed in terms of the aim of a potential referendum which would be to ensure 'that children's rights are express rights in the Constitution rather than being rights that are derived from the rights of the family in the Constitution' (Interviewee 2). Equally, O'Mahoney (2006, p. 93) states that: 'The interests of the child should not be subjugated to those of the parent in a manner which is detrimental to the welfare of the child'. The interplay of the law and education in terms of the rights of the child is reflected by the prevalence of the role of the courts in the education process.

5.2.6 Role of the Courts in Education

The interviewees focus in particular on the role of the courts in response to special educational needs issues, which they conclude have dominated in educational litigation in recent times. There is an emergent theme in the education interviewee transcripts of the increasing potential of parents to determine education policy by litigating in respect of their own particular needs as summarised by Interviewee 11: 'I do think the law has influenced

provision for certain categories and groups of children because of the awareness of some parents in relation to their rights'.

Notably, Interviewee 11's comments are consistent with the emergent theme permeating the education interviewee transcripts that parents themselves are lacking the awareness to formulate and forge facilities to pursue their rights. Certainly it appears, notwithstanding whether the majority or minority of parents have the assertiveness to do so, that in order to vindicate parental rights parents must approach the legal system rather than the education system. The fundamental theme traversing the transcripts with respect to the role of the courts is that a lack of assertiveness from the Department of Education and Skills with regard to policy resulted in a situation where parents were forced to negotiate the court system to seek direction of policy. The interviewees purport that the prevalence of the court in dictating educational practice has obvious adverse effects on the education system. However, the literature presents the difficulty from the perspective of the legal system as embodied by the comments of Osborough (2000, p. 134) highlighting the difficulties facing the courts:

Education problems supply one of the litigation battlefields of the modern Republic. All the protagonists-the State, the churches, the teachers and their unions, the local community, the parents, the children too-have individual interest they wish to see upheld. The difficulty which so frequently precipitates the lawsuit is that in seeking to uphold the interests of one set of protagonists, it is commonly impossible to do otherwise than to interfere with, and sometimes even substantially downgrade, the interests of one, if not more of the other sets.

Furthermore, in respect of the law and legislation the interviewees express a concern in relation to the adverse impact of legal demands on schools in terms of policies, procedures and monetary spending on legal advice. Notwithstanding whether or not the interviewees believe schools to be prepared in respect of the administrative legal load on school, the

interesting finding is that the education interviewees perceive themselves and indeed their profession to be accountable to the law and legislation and this is borne out by the language utilised by the interviewees. Furthermore, it is recognised by the interviewees that ‘the legislation has empowered many parents’ (Interviewee 5). However, the fact that parents needed to be empowered in order to execute their role as primary educators indicates that parents are merely ‘theoretically at the apex of the pyramidal constitutional structure supporting education’ Glendenning (1999, p. 68). This is further manifested by both education interviewees and academic commentators in analysis pertaining to the balancing of stakeholders within the education process.

5.2.7 Balancing of Stakeholders

The majority consensus and overriding conclusions of the interviewees is that the State is the dominating force in Irish education, which naturally raises issues in relation to the primacy of parents stemming from their constitutional position. The interviewees cite many reasons behind their overriding consensus that the State is the dominant stakeholder in the education process including the management, funding and regulation of schools. In terms of parental authority a prevailing theory is purported by interviewees that parents delegate authority to others to educate their children and the State has responded to this; a theory which the interviewees unanimously assert to encompass the constitutional ideal as synopsis by Interviewee 2: ‘Obviously under the Constitution parents are the primary educators so the system is one that the State has developed to assist parents in being the primary educator’. However, there is an inherent theme within the education transcripts that parents in reality can only assert their primary position by litigating within the legal framework. Ultimately, it appears that the prevailing theme in the education transcripts in this regard is that the law

empowers parents and raises their status from the least powerful stakeholder to a dominant lobbying group.

5.3 Conclusion

This chapter presented an overview of the education interviewees' opinions pertaining to the hypothesis of this study and compared their sentiment with the emergent themes from the literature in chapters one and two. The consensus of the interviewees ultimately affirms the hypothesis of the study as summarised by Interviewee 3 and Interviewee 9:

Parents are the primary educators; that is what the Constitution says. It does not mean anything (Interviewee 3).

If parents were the primary educators they would be involved in decision making around policy. They do not have the same influence over education policy that other partners have. Unfortunately parents do not have anything like the level of access or the level of influence over government that they should have. In my mind they should be a major partner in education. There is a lot of lip service around their involvement in partnership but I think they are not really listened to; I think they are grossly underused and underutilised (Interviewee 9).

The interviewees definitively observe that parents are constitutionally the primary educators. However, it is evident from a review of both the literature and the transcripts of the education interviewees that a number of factors contributed to bringing about the subordinate position of parents in practice and policy in Irish education, by comparison with the more central role of the school owners and the State. The interviewees concur that the legislation pertaining to education has empowered parents and elevated the status of parents to their constitutional position. Interestingly, this is not borne out in the academic commentary which purports that, although the position of parents has certainly been strengthened by the changes brought about in the Education Act, 1998, these changes do not amount to the full realisation of the equal partnership that successive Ministers have promised (Walshe, 1999).

However, through analysis of case law it is clear that the Irish courts have acknowledged the rights of the various stakeholders in the process of educating the child and have traditionally upheld the primacy of parental choice in primary education. This is illustrated by exemplars throughout the education interviewee transcripts of cases taken to courts by parents of children with special educational needs and lobby groups in respect of the multi-denominational sector. It is a radical finding that parents are able to embody their role as primary educator only through the assistance of the courts or through a lobbying group engaging in litigation. The sentiment exposed in the education interviewee transcript is that parents themselves simply are not perceived to embody educators, notwithstanding whether they are primary educators or not. The sense of the need by parents to be represented, notwithstanding that they are constitutionally the primary educators, is emphasised by Interviewee 11:

I am not sure who truly advocates for parents and represents all parents in that process, I would hope that all the stakeholders in the education process do it.

It is an interesting finding that the interviewees determine that parents need to be represented rather than being able to represent themselves. In this respect, Interviewee 3 summarises the juxtaposition of the constitutional position and the policy position of parents:

To a certain extent we were ahead of ourselves in terms of the constitutional identification of the primary educators, we ticked the box before the box was ready to be ticked because it was in the Constitution (Interviewee 3).

Notwithstanding the difference in emphasis between the constitutional and policy position of parents, the interesting finding is that education interviewees purport that parents can elevate themselves from their tokenistic position within the partnership process to their constitutional position as primary educators through taking a legal case or forming a lobbying group.

However, the interviewees concur there is an absence of parental engagement. Interviewee 5 attaches reasoning to the lack of parental engagement:

I think parents have a much more powerful role than they probably believe they have; they do not tend to use it because I do not think they have to. I think by and large there is a general satisfaction with the education system and I hope that continues because it will mean that parents are broadly satisfied. If parents have to campaign I think they are a powerful lobbying group. They have certainly shown it in certain areas; the multi-denominational sector was one area where they got together and lobbied, special education being another. I just hope that the position will stay like that (Interviewee 5).

In circumstances where educational policy and practice have arguably diverged from the constitutional plan for education, as envisaged, an enormous responsibility rests on the Supreme Court, as chief arbiter of the Constitution, to protect the sentiment of Article 42.1 of the Constitution while finding an equitable equilibrium between the various stakeholders in primary education. However, the legal system has failed to do this according to O'Mahoney (2006, p. 26):

The law has struggled to strike an appropriate balance between the interests of the various parties in cases where they have come into conflict.

The emergent question from the education interviewee transcripts is why the education system relies on the legal system and ultimately why parents need to litigate for the realisation of their constitutional position; it is argued that the answer pertains to the lack of policy initiative and development from the State in response to the needs of parents. It is further submitted that, unless the policy drive from the State escalates, parents will seek to enforce their policy ideals through the courts in respect of their own child. The likely result is that the common good in terms of education policy is determined by the judiciary in the absence of educational expertise in the process.

CHAPTER 6: CONCLUSION

6.0 Introduction

This chapter summarises the research findings arising from fourteen semi-structured interviews with key stakeholders, who are members of representative bodies, which influence the legal and policy position of parents as educational partners in the primary sector in Ireland. It compares the findings to trends that are evident in the literature in relation to the three sub-issues arising from the hypothesis which formed the basis of inquiry for this dissertation. The sub-issues include a legal analysis of educational partnership with parents and the response to this partnership from a policy and practice perspective. Over the course of five chapters this dissertation explores the constitutional, legal and policy position of parents as partners in the primary education process in Ireland.

Chapter one considers the legal and theoretical perspectives, stemming from academic commentary and case law that inform the legal and policy position of parents in the education process. This provides a very necessary framework within which to examine the role of the various partners and stakeholders in the education process. Chapter two explores the conceptualisation of the partnership process and reflects on opportunities for partnership within the education sphere. Chapter three describes the research methodology utilised in the study, outlining the objectives of the study and detailing processes involved. Chapter four presents the findings which focus on legal interviewees' reflections on the hypothesis of the study and compares their perspectives with the literature of chapters one and two. Chapter five analyses the education interviewees' reflections on the hypothesis of the study and again

compares their perspectives with the detail of chapters one and two. In conclusion the collective analysis of the literature review and the research findings are brought together in emerging themes which are discussed and recommendations made.

6.1 Summary of Findings

An overriding theme emerges in this study which ultimately embodies the conclusion of the research, namely the interplay between the rights of the individual and the protection of the common good, or indeed the public good, within the education system. The collision of the education and legal systems occurs because of the inherent need to balance the rights of the individual against the securing of the common good in the absence of policy seeking to achieve the balance of same. The Constitution provides the legal framework within which the process of arbitration between individual and collective rights can be guided in circumstances where the Constitution purports that the parent is the primary and natural educator of the child. However, the phrase 'primary educator' indicates that there are other stakeholders in the process of education. Indeed an important finding in this study, is that there are a number of stakeholders who ultimately embody the role of guardian of the constitutional role of the parent; the State is the guardian of educational policy and legislation, the church is the guardian of educational property and philosophy and the judiciary is the guardian of the Constitution. The interplay and dynamic between the guardians of the constitutional position of the parent in terms of a balance between the culture of individualism and the protection of the common good within the education system are presented in this section and ultimately seek to address the question posed in the hypothesis of this study and the sub-issues arising from it.

6.1.1 Role of the Parent

There is a definitive assertion by the legal interviewees that parents are constitutionally endorsed as primary educators of their children. However, both the legal and education interviewees conclude that this constitutional position is not borne out in educational practice and indeed does not translate into educational policy. Essentially, the right given to parents under Article 42.1 of the Constitution to be the primary educators and the right to education for their children are embodied by a corollary responsibility to engage as primary educators. This responsibility was not given on parents prior to the enactment of the Constitution of 1937 in circumstances where a parent by common law was not under a legal duty to educate his or her child (Glendenning, 1999). The legal interviewees conclude that parents have discharged the burden of education to the State, albeit through the churches, thereby embodying the principle espoused by the education interviewees that the term primary ‘recognises that there will be other educators besides the primary ones’ (Interviewee 1).

The theme of parental delegation as a response to the constitutional role of parents is evident in the transcripts of the education interviewees and is manifested through observations and reflections surrounding the lack of time, initiative, interest and ability pertaining to parental involvement with their children’s education. Parental delegation of educational responsibility to other stakeholders is not an absolute delegation of their duty according to the legal interviewees; ultimately the State, the church and the courts embody the position of guardian around the role of the parent to be primary educator. In any event the role of the parent can never be totally subsumed by either the church or state because of the use of the term ‘inalienable rights’. However, reliance on a subjective analysis of the term ‘inalienable’ as advocated by Walsh J. in the case of *G v An Bord Uchtála* [1980] IR 32 could indicate that

parents have to transfer some of their role to the State in order to avail of the social institution of the school. Moreover, a strict analysis of Article 42.1 results in an observation that the role of the State only extends to 'respect' the inalienable rights of parents as opposed to guaranteeing them.

The principle of parental delegation is facilitated by the State in terms of educational policy; the Minister for Education and Skills in respect of statutory responsibility; the church with regard to responsibility for educational property and the courts in respect of educational arbitration. The teachers' unions, colleges of education and other educational bodies and agencies have ancillary responsibilities. An analysis of the transcripts of the education and legal interviewees together with an understanding of the literature review illustrates the historical reasoning together with the legal and educational responses to the phenomenon of parental delegation of their constitutional role to the State.

6.1.2 Role of the State

The consensus of the education interviewees, notwithstanding divergence of opinion in relation to the definition, conceptualisation or mechanics of partnership, is that partnership with parents is concluded in policy but not in practice. The manifest separation of policy and practice and obvious lack of translation of policy pertaining to educational partnership into practice raises questions in relation to the potential execution of a systematic enforcement of policy in respect of partnership with parents; however this dissertation does not seek to rehearse the detail of that debate.

With regard to the legal interviewees they perceive parents to exercise their primary role through a decision to delegate to the State whereas the literature review questions whether or not parents are the primary educators because the State effectively appears to be the dominant stakeholder by virtue of the substantial amount of educational control perceived to attach to it. An analysis of the legal interviewee transcripts reflects the situation whereby the Constitution seeks to extend a supportive constitutional role in respect of education to the State as a reaction to the historical context at the time of the enactment of the Constitution in 1937, which was characterised by excessive state force in Europe. Notwithstanding the supportive role of the State as dictated by the Constitution, the primacy of the State is necessary in the education system in order to protect the common good of citizens. This is an important principle in circumstances where, according to the legal interviewees, if a critical mass of parents demanded a particular type of education there is a constitutional obligation on the State to make that provision. The concept of a critical mass does not have a constitutional basis but rather has been interpreted by the judiciary as being a safeguard for the State. While the present Supreme Court exercises a conservative approach, the critical mass safeguard ensures that parental demands with respect to education are curtailed. Arguably, the critical mass of parents is necessary in order to vindicate the representation of collective rights and ultimately the common good as opposed to the vindication of individual rights as driven by individual parents. The lack of meeting of minds of the interviewees in respect of the purported dominance of the State in the education process stems ultimately from differing perceptions of how the role of the parent should be executed in the education sphere in terms of school choice, school administration and school involvement. Ultimately, the gauge of the level of measurement pertaining to the extent to which parents are the primary educators in practice is commensurate with the arbitration of their role in the face of alternative bodies assuming the role.

In case law the most significant case recalled by the legal interviewees is *O'Shiel v Minister for Education* [1999] 2 ILRM 241 where parents asserted their constitutional right to be primary educators by seeking to demand the Steiner method of education for their children. However, notwithstanding their constitutional right to be the primary educator, the court found in favour of the Department of Education and Skills in circumstances where a critical mass of parents were not seeking the Steiner method. While arguably this resonates with a manifest example of the State dominating the education process it is also a heralding of the need to protect the common good as opposed to the culture of individualism and ultimately this embodies the role of the courts in the education process.

6.1.3 Role of the Courts

The role of the courts, as is conclusively evident from the perceptions of the education interviewees, is to act as chief arbiter in education disputes. However, on closer analysis of the legal interviewee transcripts and legislation, it emerges that the courts are effectively determining resource based issues through seeking to balance the rights of the individual parent against the common good. Interestingly, Section 6 of the Education Act, 1998 establishes its endeavour to 'promote the right of parents to send their children to a school of the parents' choice having regard to the rights of patrons and the effective and efficient use of resources'. This concurs with the comments of Interviewee A that the State can have regard to resources to a certain extent until parental demands reach a certain critical mass. Interviewee A further makes reference to the practical aspect of the State allocating funding which ultimately 'determines the rights of parents'. This principle also reflects an embodiment of the role of the State, which is entitled to have regard to what resources are available and feasible and what is practicable according to the legal interviewees. This

further correlates with the sentiment of the education literature which proposes that parents cannot be equal partners in circumstances where they do not control the resources (Fine, 1997). This raises questions pertaining to whether an individual parent can be a primary educator in circumstances where the common good in terms of resource issues is in the guardianship of both the State and the court. In this regard, Interviewee 1 states that: 'I suppose one of the things that would be very important is that parents need to be brought from concern in relation to their own child to the more global concept of the common good.'

The common good, which is protected by the State through the courts, pertains to resource based issues and also to the protection of individual children promulgated under Article 42.5. The overriding question transcending this area is whether the common good of the individual child can be protected in the absence of express constitutional rights; however that is an issue to be addressed through a referendum according to both the legal and education interviewees. The protection of the common good emerges, according to the legal interviewees, through the jurisprudence of the court system rather than as a result of an intent on the part of the framers of the Constitution who promoted the rights of the individual in a liberal Constitution in the context of the time of its advancement in circumstances where the rights of the individual were being attacked by the State in Europe. According to the legal interviewees, the historical background to the framing of the current Constitution accepted Catholic social teaching. However, as is apparent from both the literature review and the sentiment of the legal and education interviewees, the role of the Catholic Church in education, for cultural, practical and traditional reasons, expanded beyond the mindset of the framers of the Constitution.

6.1.4 Role of the Catholic Church

As distinct from the role of the State and parents, the churches are not given any direct constitutional right. However, according to the legal literature review and the legal interviewees, the role of the church cannot be determined in isolation from Article 44 which supports the position of the religious denominations in education. The literature promotes the principle that Article 42.1, with its emphasis on the doctrine of parental autonomy, has indirectly consolidated the power of the churches within the educational system. However, this concept contrasts sharply with the opinion of the legal interviewees, which collectively observe that parental responsibility simply stems from an exercise of their constitutional position as primary educator and that the State or church does not seek to impose an educational focus but rather respond to the delegation driven by parents. Notwithstanding the discrepancy in academic opinion, it is definitively concluded in case law that denominationally controlled primary education is compatible with the Constitution (*Crowley and the AG* [1980] IR 102).

However, it is further purported within the constitutional framework that denominational education cannot be favoured. This presents a challenge to the primary education sector in Ireland whereby almost ninety per cent of school are under the patronage of the Catholic Church. As detailed by the literature review, this translates to a situation where the State is funding a single type of education which is precisely the type of scenario which Laffoy J. opined would ‘pervert the clear intention of the Constitution’ (*O’Shiel v Minister for Education* [1999] 2 ILRM 241 at page 263). Interestingly, each of the three legal interviewees refer to the existing situation where the vast majority of primary schools in this country are denominationally controlled and assert that the existing situation is

constitutionally sustainable because of the constitutional safeguard that the family should decide how children are to be educated. In recent times, the easy assumption that parental interests coincided with those of the Catholic Church has broken down so that now educational policy must take account of the triangular relationship between State, parents and the Catholic Church, something that the text of the Constitution always did. Within this context it must be noted that Article 2 Protocol 1 of the European Convention on Human Rights enforced on 18 May 1954 infers that parents have the right to ensure that education is provided in accordance with their own religious and philosophical convictions. However, what is crucially important is that the duty on the State is only to respect the rights of parents who must themselves ensure that education takes place. In Ireland the State has gone further and initiated the Forum on Patronage and Pluralism in 2011.

It is clear therefore that a constitutional change is not necessitated by the prevailing culture, identified by both legal and education interviewees, seeking to divest schools away from denominational dominance. The legal interviewees explain that this can be done if there was sufficient demand by parents to fund schools that were entirely secular, that can be done within the terms of the existing Constitution if there were sufficient parents looking for it. The need for sufficient numbers of parents to seek the change is to protect the common good rather than to enforce state or church dominance within the education sphere. Important developments will occur in this regard in circumstances where, as highlighted by Coolahan *et al.* (2012), contemporary parents are becoming more vocal in seeking their educational rights than former generations. The overwhelming theory purported by the education interviewees in this regard is that there is a culture of accountability prevalent in society which is facilitating the change in mindset on the part of parents with regard to denominational education. However, one of the education interviewees expresses a differing viewpoint to the

majority of interviewees and concludes that the question pertaining to the divestment of schools is only a catalyst for parental involvement.

The State response to the issue of school divestment, in the form of the Forum on Patronage and Pluralism, is not a useful example in terms of examining how the education system will potentially respond in the future to parental assertion of rights in circumstances where all of the interviewees concur that a majority of parents sought divestment of schools. Therefore, the State initiation of the Forum on Patronage and Pluralism, notwithstanding that the State was under no legal obligation to execute the process, was ultimately a response to the needs of the majority of parents and arguably correlated with the common good. This principle was borne out in the Report of the Advisory Group on the Forum on Pluralism and Patronage in the Primary Sector, 2012: ‘It is not always easy for public policy to secure a balancing of rights for all its citizens, but it is incumbent on States to make every effort to do so’ (Coolahan *et al.*, 2012, p. 6). The issue of divestment of schools is moving towards clarification as highlighted by the Report of the Advisory Group, which illuminates the primacy of parental choice (Coolahan *et al.*, 2012). However, it is difficult to contend with an understanding of how the next catalyst for change on behalf of parents will be handled by the State, particularly in circumstances where a majority of parents in favour of the potential change may not be manifested. The confirmation of direction of state policy for dealing with parental assertion of rights which favour their individual child in the absence of concern for the common good is necessitated.

6.2 Emerging Themes

This study undertook to explore the hypothesis that past and current legal and policy provision affecting parents as educational partners in primary education in Ireland does not recognise the parent as the primary educator of their child as stated by the Constitution of Ireland, 1937. The framing of the hypothesis in this study within three further sub-issues sought to provide a lens within which to explore the hypothesis. The sub-issues arising from the hypothesis aimed:

1. To analyse educational partnership with parents in the Republic of Ireland and the response to this partnership in the primary sector in Ireland by exploring the past and present legal and policy position of parents.
2. To examine the policy and practice position of parents as educational partners in primary education in Ireland.
3. To research the understanding of educational partnership with parents from present major stakeholders in primary education in Ireland.

This dissertation examined the hypothesis of the study using the three sub-issues to inform the direction of the exploration. The resultant findings emerging from the research process and recommendations pertaining to same are presented in this final section. The findings of this study definitively affirm its hypothesis, namely that past and current legal and policy provision affecting parents as educational partners in primary education in Ireland does not recognise the parent as the primary educator of their child as stated by the Constitution of Ireland, 1937. The constitutional role of the parent as ‘primary educator’ is not implemented in law, policy or educational practice but is used as a guide to judicial interpretation shaped by conflicting constitutional cultures.

The conclusion of this study in respect of its hypothesis, however, must ultimately be framed within a lens of perception. Ultimately, whether or not the purported primacy of parents outlined by the key stakeholders in this research manifests itself in the role of ‘primary educator’ as defined by the Constitution is a matter of perception which cannot be separated from the State’s need through the court system to protect the common good. This dissertation finds that past and current legal and policy provision does not recognise the parent as the primary educator as stated by the Constitution. However, the constitutional role of the parent with regard to education straddles an ideological fault line in terms of the balance between individual parental choice and considerations of the common good.

It is apparent that the reason that parents seek to assert their primacy in the courts stems from resource based differences with the Department of Education and Skills whereby the State is protecting the common good but parents are seeking to ensure the protection of the individual needs of their own child. Therefore the role of the courts pertains to the determination of resource based issues rather than educational issues; a concept which arguably results from the italicised wording of the constitutional articles:

The State acknowledges that the primary and natural educator of the child is the Family and guarantees to respect the inalienable right and duty of parents to *provide*, according to their means, *for* the religious and moral, intellectual, physical and social education of their children (Article 42.1)

The State shall *provide for* free primary education (Article 42.4)

Indeed, it can be concluded from the above wording that the role of the parent is to provide for the education of the child while the role of the State is to provide for the resourcing of the education of the child. Legislation endorses this constitutional position; Section 6 of the Education Act, 1998 establishes its endeavour to ‘promote the right of parents to send their

children to a school of the parents' choice having regard to the rights of patrons and the effective and efficient use of resources'. The court determines resource based disputes by attempting to achieve balance, in terms of equality of resources, between the liberal constitutional cultures of the protection of rights of the individual against the promulgation of the common good. In practice, in seeking fulfilment of specific individual needs, not necessarily catered for in a particular general policy area which pertains to the perceived common good, parents seek the interpretation of the courts where the Department of Education and Skills or other vested interests cannot concede individual concessions. Consequently parents are forced to pursue their needs through the courts. The overriding finding of this study is that the term 'primary educator' ultimately acts as a guide to the court or the legislature in respect of how to balance competing constitutional rights if a conflict arises between the individual interests of parents and the collective interests of the State. This finding exposes the relevance of this study and its contribution to the research paradigm concerning the constitutional, legal and policy position of parents as primary educators. The constitutional acknowledgment given to parents ultimately is that they will be the primary vindicators of their children's rights in circumstances where children are granted no express rights within the Constitution.

The lack of translation of the acknowledgement of constitutional primacy afforded to parents into statute, policy and practice indirectly and adversely affects the rights of the child within the education system in Ireland. If the rights of the child are purportedly protected within the rights of the family and in the absence of the primacy of the family in education matters it appears that the rights afforded to children in education in Ireland are in breach of the UNCRC in circumstances where the Convention entitles the child to specific rights within the education system. Although the welfare principle appears in a number of Irish Statutes

relating to children, it is absent, at least in its express form, from the Constitution. Notwithstanding the absence of the welfare principle, if the right of the parent to be the primary educator was endorsed in statute, policy and practice, the rights of the child in terms of education would be protected within the ambit of rights of the family unit. This embodies a further finding of this study and the recommendation of a referendum on the rights of the child is endorsed by all of the interviewees in the study.

This study further finds that an analysis of the term 'primary educator' must include a demonstration or at the minimum a reference to the purported fact by education interviewees that parents themselves do not seek to elevate themselves to the constitutional ideal. Indeed, the education interviewees purport that through delegation of responsibility to other stakeholders parents are content with their positioning. This finding cannot be separated from an underlying fear exposed by the education interviewees that parents will seek to determine educational policy by navigating the legal system. This finding must be grounded within the premise that the education interviewees represent distinctive interests and many may engage a potential wariness of any major increase in the power of parents, especially if delivered by judicial activism. In any event, if a parent seeks to assert a particular perceived educational need they can do so through the court which ultimately is the protector of the Constitution; this process is not specific to the educational arena.

The findings of this study also demonstrate that the constitutional acknowledgment granted to parents to be the primary educators has potential negative consequences in terms of its impact on the long established educational system consisting of researched ideals and practices. This stems from the emergent finding in this study which demonstrates that in order to vindicate

parental rights, parents must approach the legal system rather than the education system. The current response of the legal system encapsulates an endeavour to achieve a balance between individual rights and the common good by ensuring that a critical mass of parents exists before a particular right will be advanced. This approach on the part of the courts leads to a situation where parents appear to present themselves along lobby lines. The fact is that parents appear predominantly to present themselves along lobbying lines rather than initiators of individual issues. Moreover, the significance of the alignment of parents raises questions in relation to the representative nature of any grouping purporting to represent parents. This thesis finds that if the current situation described by interviewees proceeds whereby parents align themselves in lobby groups and the court arbitrates, notwithstanding the representative nature or otherwise of lobby groups, then the foundations of our relatively new education system will be questioned in sequence and brought before a court of law to determine whether individual rights or the common good should be protected in terms of provision of resources. Furthermore there are resultant implications for educational practice and the preservation of ideals generated by educational researchers. This is a remarkably prevalent potential problem in circumstances where there is an overwhelming consensus in both the literature review and all of the interviewee transcripts that parents are becoming more assertive in respect of their rights in a society that demands a culture of accountability. In that event the education system becomes one of response and reward of resources within a legal sphere.

The State must arguably be more proactive in terms of policy formation in consultation with parents as part of a wider partnership process. In the absence of state pro-activity it is clear that parents will continue to make individual demands for their own children or for groups of individual children. Notwithstanding that the individual is at the heart of what society is

about, and that the potentially adverse nature of an aggressive state is to be avoided, a balance must be struck between protecting parents' rights but also arguably protecting the education system which has been arrived at following a long culture of research and experience.

An example of a policy response by the State to an overload of legal cases is proffered by the education interviewees in the context of special needs. A policy response from the State, namely to acknowledge the need for provision for children with special needs and the extension of the role of National Educational Psychology Service, negated the deluge of cases coming before the court. It is clear that the State must identify, interpret and cater for the changing needs and wants of parents that are emerging with regard to the education of their children (Coolahan *et al.*, 2012). This would serve to negate the emergent imposed arbitration by the courts of Article 42.1 of the Constitution and would ultimately avoid a situation whereby the courts dictate educational policy. The legal literature proposes that the position of parent as primary educator means that prescriptive imposition of state educational policies through legislation, without consultation with parents, is not generally available to the State; thereby state regulation through policy initiatives rather than legislation must be forthcoming. This could serve to detract the possibility of court direction of educational policy through interpretation of legislation.

The absence of definitive formulated policy by the State to the needs of parents has resulted in many instances in the increase of litigation. The focus historically has been on partnership with parents and much of the literature review and comments of the education interviewees focus almost exclusively on the process of achieving partnership with parents rather than a debate surrounding the conceptualisation of how partnership with parents should actually

operate in practice or indeed what constitutes partnership. The ideal of partnership with parents has been reached from a theoretical standing; however its translation into practice requires further efforts. Partnership with parents must move from rhetoric to reality in terms of how parents' needs are to be addressed within the educational partnership sphere. The difficulty arising from the inclusion of parents in the partnership process is that parents are the only partners in the education structure who strive to achieve the individual needs of their own children rather than the collective needs of all children in the education system.

The need to determine policy in the education sector for the collective good of all children in the education system resonates with the long established legal ideal of the protection of the common good. The education system is currently utilising the experience of the legal system in terms of resource provision for the common good of all children. The fact that the court system is long established to adjudicate between the rights of the individual and the common good is relied on indirectly by educationalists; however the education sector needs to form its own adjudication process in order to displace its dependency on the legal system for the purpose of protection of its long established educational ideals.

Education, in its current format, is dependent on the approach taken by the Supreme Court to constitutional interpretation. Research and development informs the approach taken by the courts; however research undertaken by legal academics and commentators in the context of constitutional interpretation does not strive to inform or protect educational practice, whether directly or indirectly. In any event the courts are aware of this issue and have signalled to the State that there are other things that need to be done according to what is appropriate in so far as educational resources can permit citing the examples of pupil teacher ratios and the

conventional school year. Ultimately, the courts are signalling that policy formation needs to emerge from the State in order to protect the common good. It is questionable whether the courts would be willing to 'pervert the clear intention of the Constitution' (*O'Shiel v Minister for Education* [1999] 2 ILRM 241 at 263) by dictating educational policy in circumstances where the present Supreme Court holds that the protection of certain fundamental rights including education is a function of the Oireachtas and not the courts. The resultant conclusion is that the courts are not the chief arbiters of the Constitution but that the State through the government exercises the role of chief interpreter of the Constitution. In this regard, the Education Act, 1998 as the legislative arm in the process, must interpret the Constitution while acting in compliance with the sentiment of the document. This is interesting in respect of the fact that parental primacy is not reflected in the composition of the board of management under the Education Act, 1998. The Education Act, 1998 bestows the Minister with the statutory responsibility for the education of the child. Parents are therefore theoretically the primary educators; however they are not accorded the same status under statute, policy or practice.

6.3 Recommendations and Conclusion

Arising from the findings of this study the following recommendations are offered:

- Education sector to displace dependency on the legal system in order to protect long established educational ideals generated through research;
- Adjudication system to be established whereby parents advance their individual rights through a system seeking to accommodate those rights within a continuum which

resonates with the common good. The State, as guardian of the common good, embodies the stakeholder whose responsibility should extend to such a practice;

- Escalation of state pro-activity in terms of policy development pertaining to the advancement of educational partnership;
- Educational partnership to be constructed in such a way that parent's natural concern for their own children is directed to efforts which benefit the collective good for all children in the system;
- Prioritisation by the State of the allocation of educational resources and the judicious use of budgetary capital allied to forward planning and consultation with the various vested educational interests should seek to balance the potential conflict between the perceived individual need and the common good and avoid an acceleration of an advancement of parental litigation in the legal system.

The conclusions and recommendations of this dissertation are based on the analysis of our Constitution in its current format notwithstanding that the proposed amendment to Article 42.1 broadens the provision, in line with existing case law, to include the role of parents as not only primary educators but also 'primary carers' and 'protectors of the welfare of a child' (Government of Ireland, 2010, p. 67). However, further fundamental change in terms of the primacy of parents is likely to be realised from our participation in an ever expanding European dimension. Individual detail or articles of our Constitution may not be immune from universal European directives. Moreover, in circumstances where EU law supersedes the Constitution, the role of the parent to be the primary educator may ultimately be extended to the role of primary vindicator of rights within the European legal framework. Articles

within the ambit of the Constitution may undergo fundamental change through an orchestrated domestic referendum process in Ireland or through a changing European legal landscape.

The conclusive finding of this dissertation is that the hypothesis is affirmed, namely that past and current legal and policy provision affecting parents as educational partners in primary education in Ireland does not recognise the parent as the primary educator of their child as stated by the Constitution of Ireland, 1937. This definitive conclusion certainly adds clarity to the current position of parents as partners in primary education in Ireland and additionally presents further authority to the existing body of literature and research pertaining to purported parental primacy. However, there is a further interesting observation drawn from the conclusions of this exploratory study. To date, the relatively limited jurisprudence on the position of the parent as the primary educator has focused on the triangular relationship between the State, church and parents. In circumstances where the State has initiated the Forum on Patronage and Pluralism in 2011 in the context of divestment of schools, it remains to be seen how, in the future, the courts will balance the rights of the remaining two stakeholders, namely the State and the parent. This is of critical importance in circumstances where constitutional policy on the primacy of parents in education straddles an ideological fault-line in terms of the balance between individual parental choice and considerations of the common good. Perhaps the overriding question emerging from this dissertation is how future legal and policy provision affecting parents as educational partners in primary education in Ireland will seek to achieve a balance between the constitutional rights of the parent and the State. This is a complex question in circumstances where a new protagonist with attaching rights is likely to enter the constitutional matrix pertaining to education, namely the child.

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APPENDIX 1

Legal Interviewee Schedule

Category 1

What is the status of the Constitution in Irish law today?

What is the role of the Constitution in Irish law today?

To what extent can judges interpret the Constitution?

What is the role of the parent according to the Constitution?

What is the effect of a changing society on the constitutional role of parents?

Do you envisage any future constitutional changes with regard to the role of the parent?

Do you consider any future constitutional changes to be necessary with regard to the role of the parent?

What is the significance for parents of Article 42.1 of the Constitution?

What approach to constitutional interpretation is suitable for interpreting Article 42.1 today?

What do you consider to be the most appropriate interpretation of the term 'primary and natural educator' today?

What is your interpretation of the word 'inalienable' in Article 42.1?

How should the word 'education' in Article 42.1 be interpreted?

What other interpretations of the word 'education' are possible?

Is the word 'family' in Article 42.1 to be understood as the family based on marriage?

What is your understanding of Article 42.2 with regard to the rights of parents?

Is parent's choice of school for their children an absolute or a qualified right?

What is your understanding of Article 42.3 with regard to the rights of parents?

What does the 'certain minimum standard' of education referred to in Article 42.3.2 constitute?

How does the States duty to provide a 'certain minimum standard' of education fit with the rights of the parent?

Is there any other issue in relation to the Constitution or legal rights of parents or Article 42 that I have not covered that you would like to comment on?

Are there any other articles in the Constitution which relate to education?

Is the constitutional plan for education as envisaged by the framers of the Constitution relevant today?

What are the legal rights of parents in Ireland today with regard to the education of their children?

Ideally what legal rights do you think parents should have?

Are parents aware of their legal rights?

Who determines the legal rights of parents?

Whose role is it to protect the legal rights of parents?

Have you observed changes over time regarding the legal rights of parents?

What developments do you think will occur regarding the legal rights of parents in the future?

What do you understand the rights of the child to be in this context?

Category 2

According to the Constitution, who are the main stakeholders in the primary education process?

What does the Constitution intend the role of the church in education to be?

According to the Constitution, what is the role of the State in education?

To what extent do you think the courts should be involved in education matters?

Are there any other stakeholders in the Constitution who influence education?

Who do the Irish courts consider to be the dominant stakeholder in the education process?

Are there conflicts between the major stakeholders in education arising from any wording within the Constitution?

Conclusion

Do you think parents are the primary educators of their children as stated by the Constitution of Ireland?

Are there any other issues in relation to this topic that I have not covered that you would like to comment on?

Is there anything else you would like to add about any of the items we have discussed?

APPENDIX 2

Education Interviewee Schedule

Category 1

What do you see as the role of parents in their children's education?

What do you consider the ideal role of parents in their children's education to be?

What role in education do you think parents will play in the future?

What is the effect of a changing society on the role of parents?

What do you understand the constitutional position of parents to be?

What do you understand by the term primary educator?

What are the legal rights of parents in Ireland today with regard to the education of their children?

Ideally what legal rights do you think parents should have?

Are parents aware of their legal rights?

Who determines the legal rights of parents?

Whose role is it to protect the legal rights of parents?

Have you observed changes over time regarding the legal rights of parents?

What developments do you think will occur regarding the legal rights of parents in the future?

What do you understand the rights of the child to be in this context?

Category 2

Who do you think is ultimately responsible for the education of children in primary school in Ireland?

What do you consider the role of the church to be in education today?

What do you consider the role of the State to be in education today?

What do you consider the role of the Department of Education and Skills to be in education today?

What is the role of the unions in education today?

What is the role of the Inspectorate in education today?

What is the role of the courts in education today?

What is the role of the colleges of education in education today?

Do you consider any of these groups to have a dominant role in education today?

Do you consider any of these groups to have a limited role in education today?

Category 3

What do you understand by the term educational partnership?

What do you think is the ideal educational partnership arrangement?

When do you consider educational partnership with parents to have emerged as a concept in Ireland?

What approach is currently taken to educational partnership in Ireland?

What circumstances foster educational partnership in the Irish education system?

Are there any obstacles to educational partnership?

What are the challenges facing educational partnership with parents?

What level of educational partnership with parents do you think will exist in the future?

Are there any policy changes necessary in order to support partnership in the future?

What is the role of the teacher in educational partnership?

How do you think teachers view the concept of educational partnership?

What is the role of parents in educational partnership?

How do you think parents view the concept of educational partnership?

What do you think are parents' expectations in relation to educational partnership?

What level of partnership with parents exists in schools?

What do you think can be gained by parents from partnership with the school?

What models of communication between parents and schools are necessary for partnership to exist?

What choices do you consider parents to have in relation to where they send their children to school?

How adequate are these choices of schools for parents?

Should parents' choice of school for their child be an absolute right or a qualified right?

What is your attitude towards home education?

Who should determine the age a child starts school at?

What opportunities are there in our current system for parents to be involved in education?

Conclusion

Is there anything else you would like to add about any of the items we have discussed?

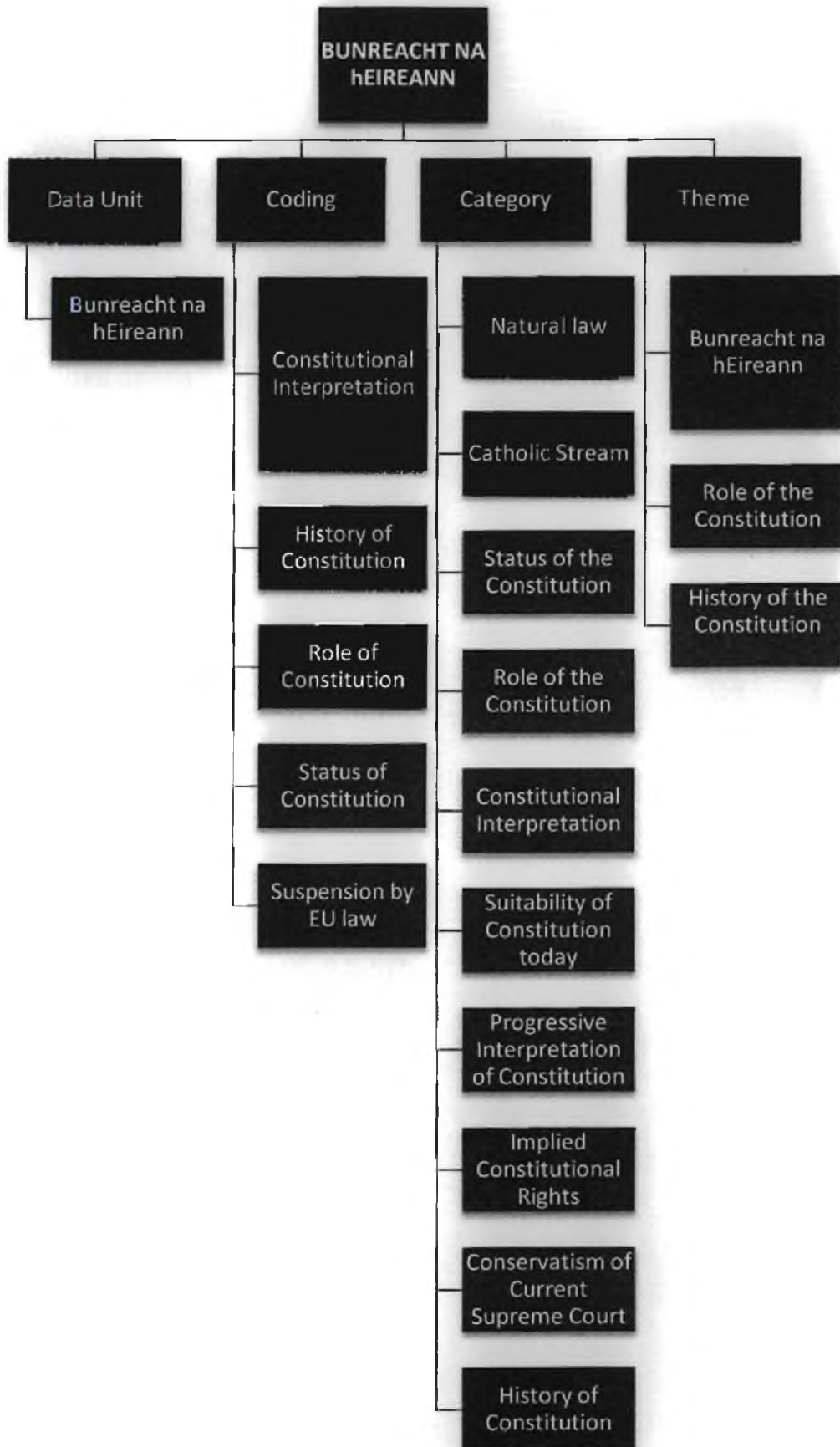
Are there any other issues in relation to this topic that I have not covered that you would like to comment on?

APPENDIX 3

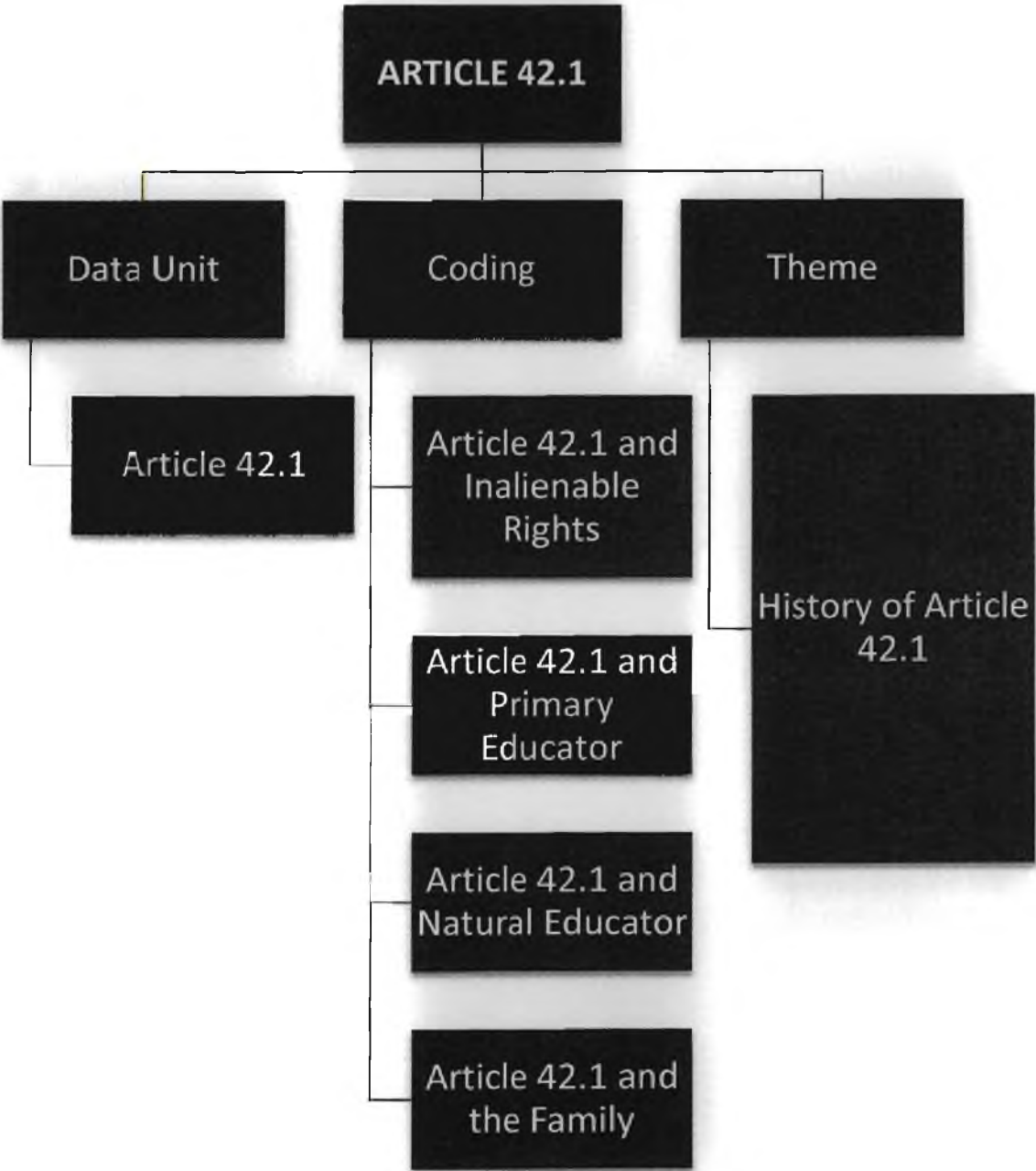
Initial Data Units of Legal Interviewee Transcripts in Preparation for Coding

- Bunreacht na hÉireann
- Article 42.1
- Catholic Theology
- Role of the State in Education
- Role of the Courts in Education
- The Courts and the Constitution
- Education Act, 1998

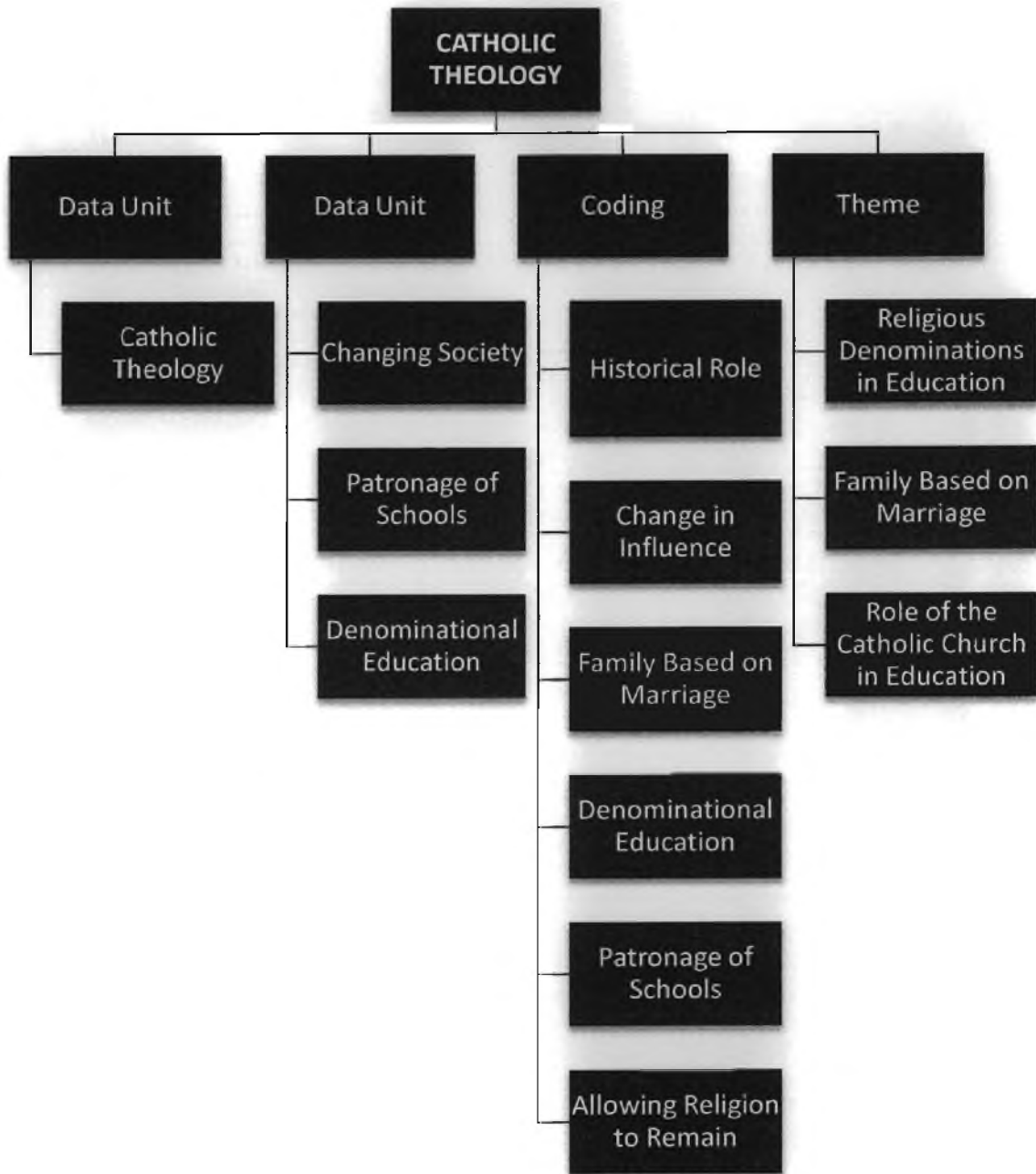
APPENDIX 4



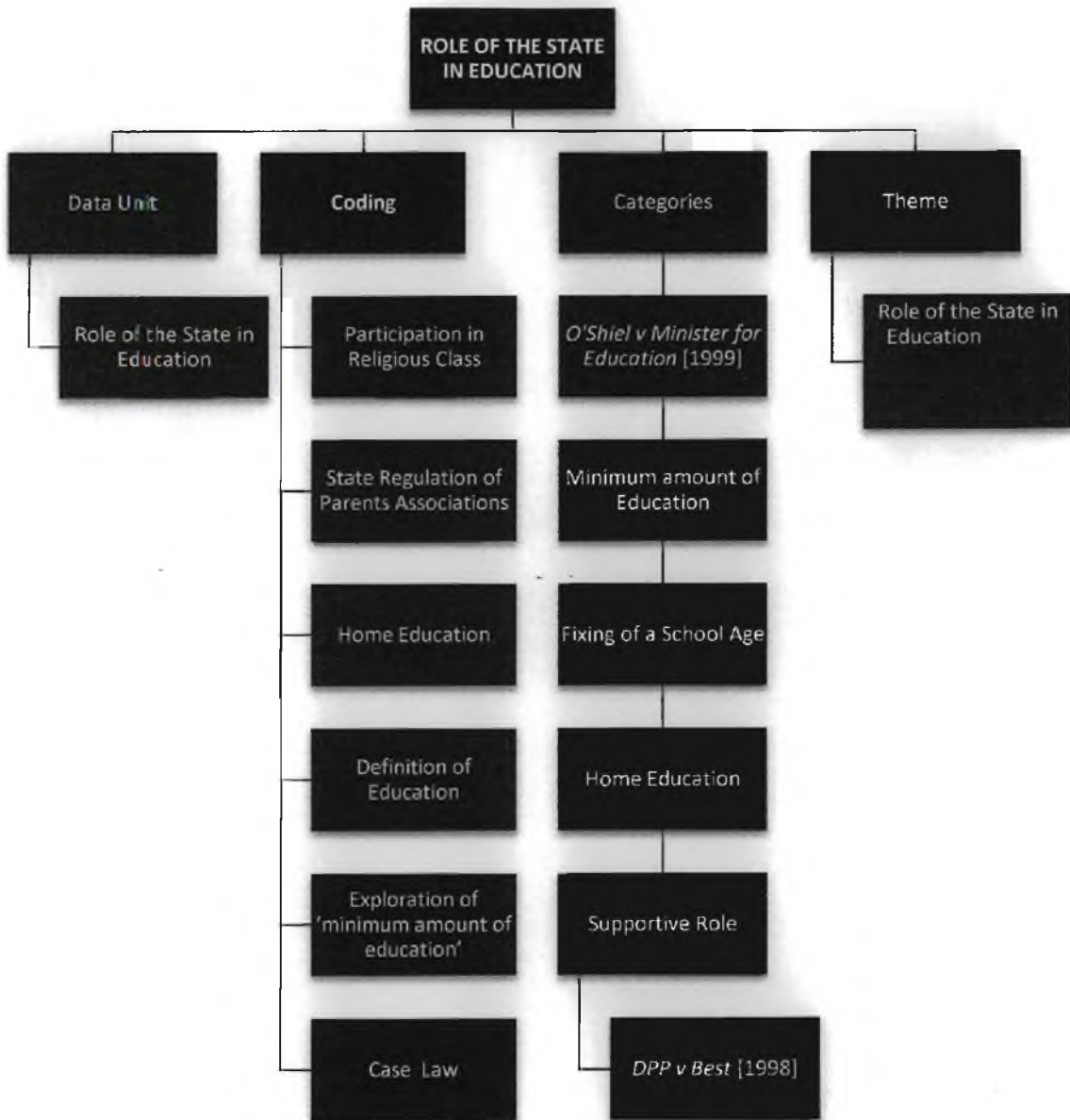
APPENDIX 5



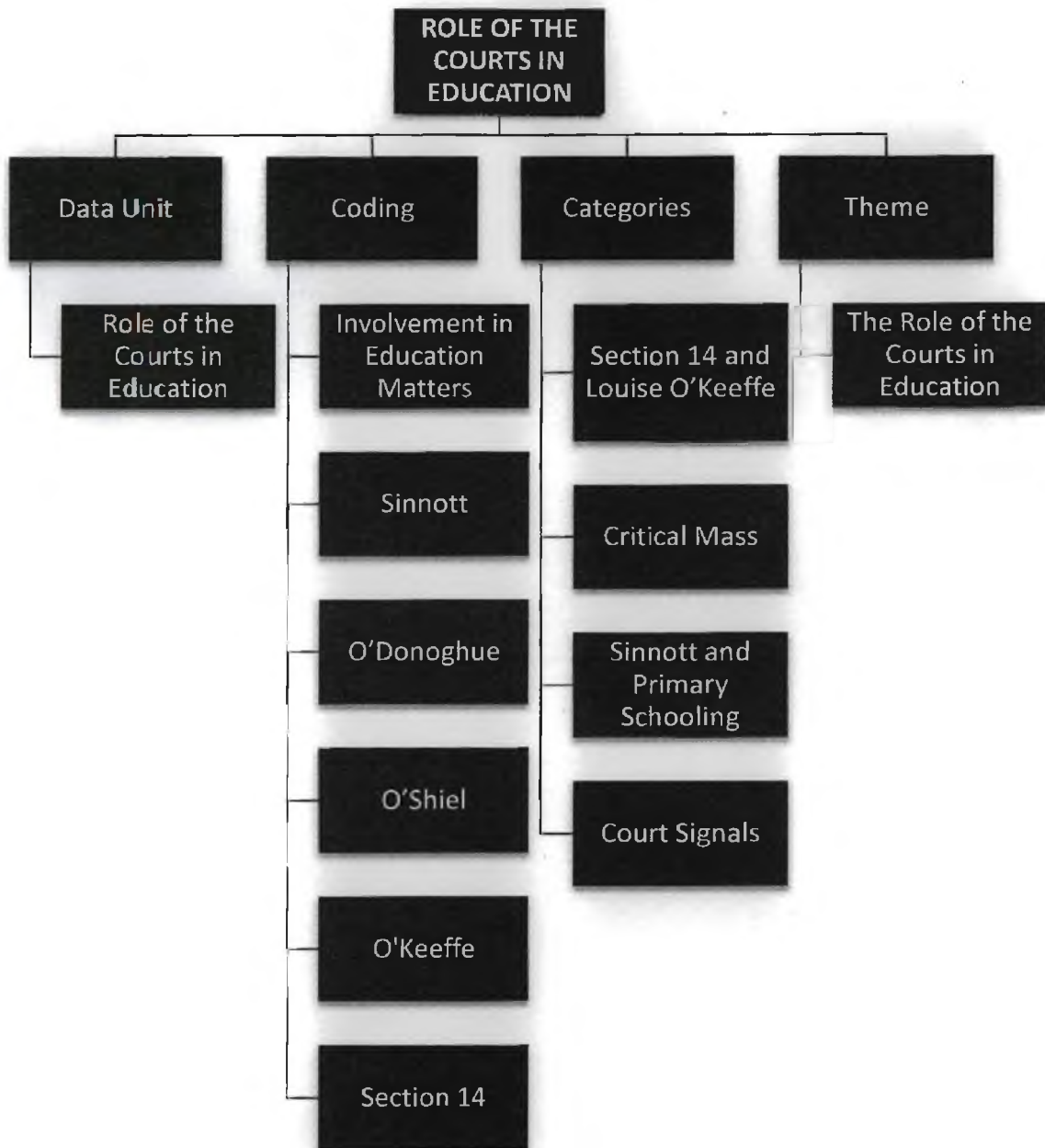
APPENDIX 6



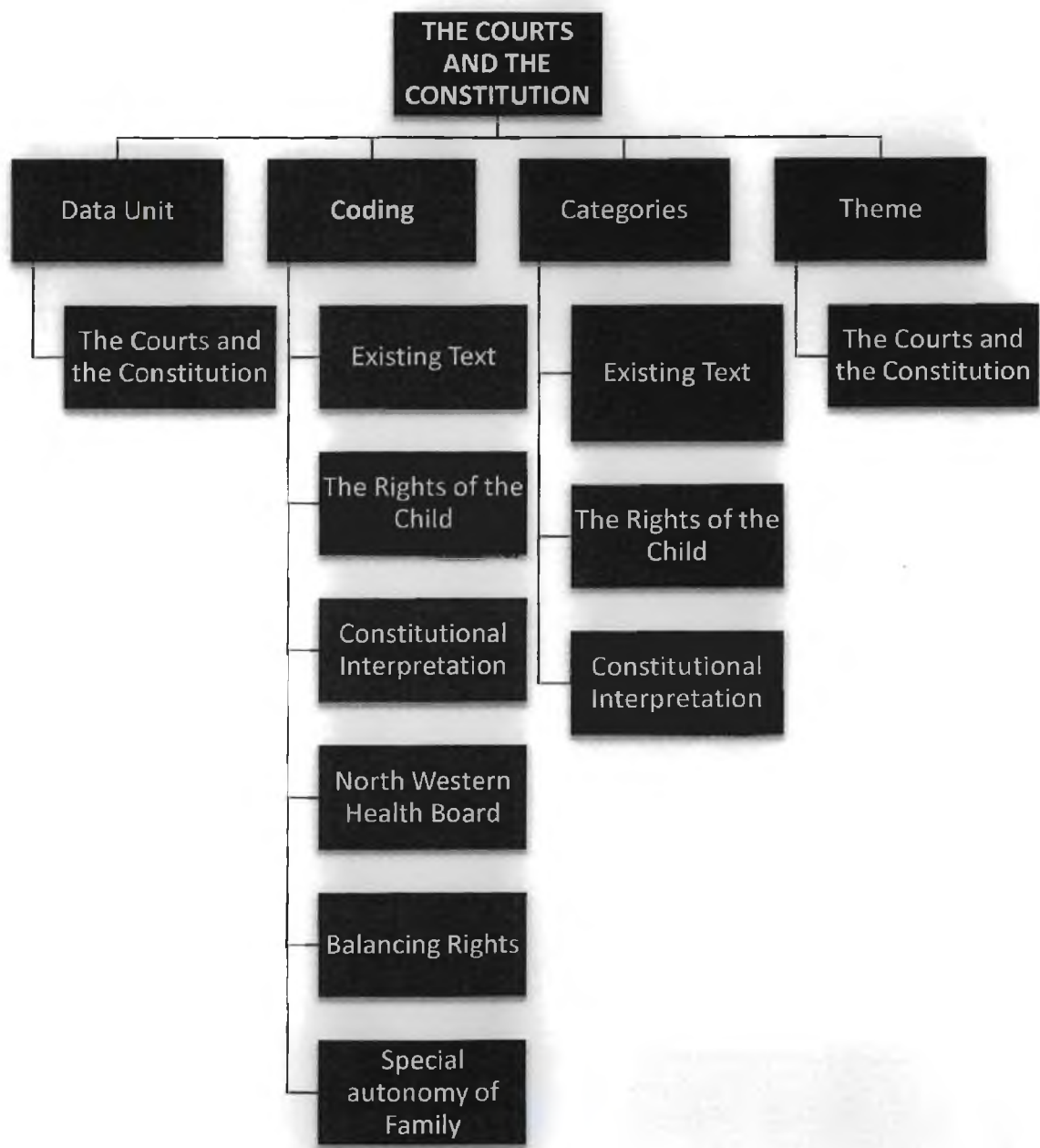
APPENDIX 7



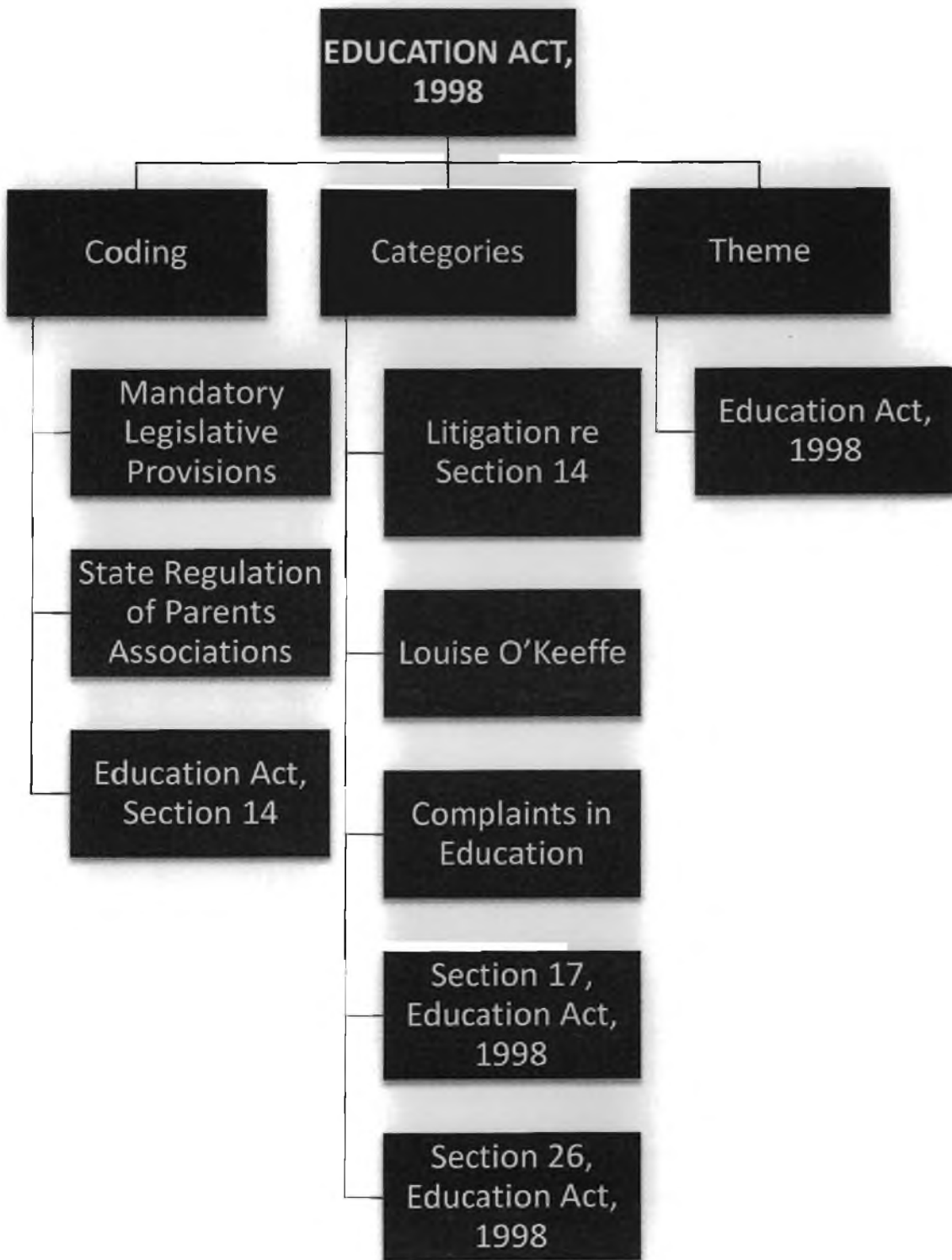
APPENDIX 8



APPENDIX 9



APPENDIX 10



APPENDIX 11

Emergent Themes from Legal Interviewee Transcripts [Presented in Chapter 4]

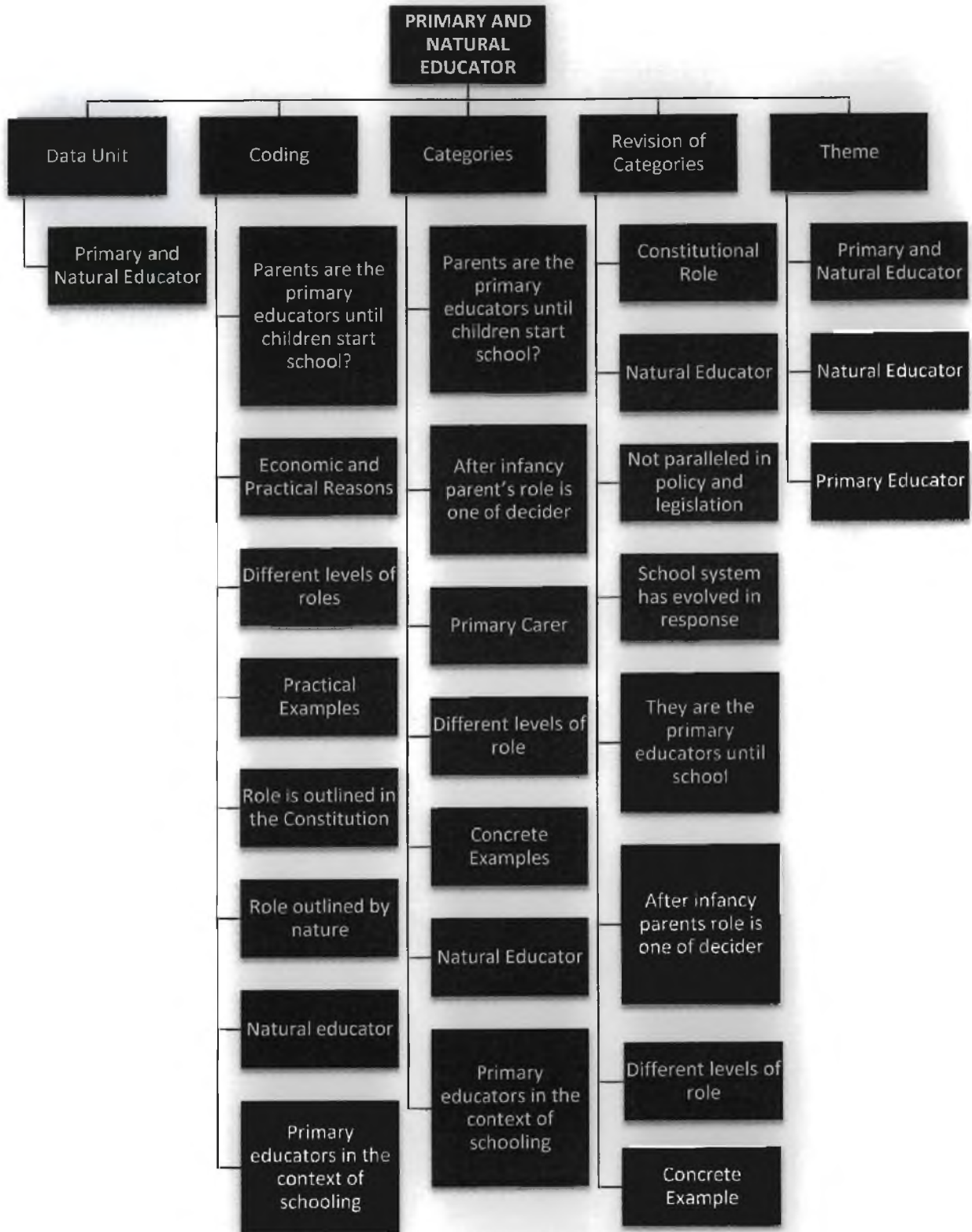
4.1	Presentation of Legal Interviewee Data
4.1.1	Bunreacht na hÉireann
4.1.1.2	Role of the Constitution
4.1.1.3	History of the Constitution
4.1.2	History of Article 42.1
4.1.3	Religious Denominations in Education
4.1.3.1	Family Based on Marriage
4.1.3.2	Role of the Catholic Church in Education
4.1.4	Role of the State in Education
4.1.5	Role of the Courts in Education
4.1.6	The Courts and the Constitution
4.1.7	Education Act, 1998

APPENDIX 12

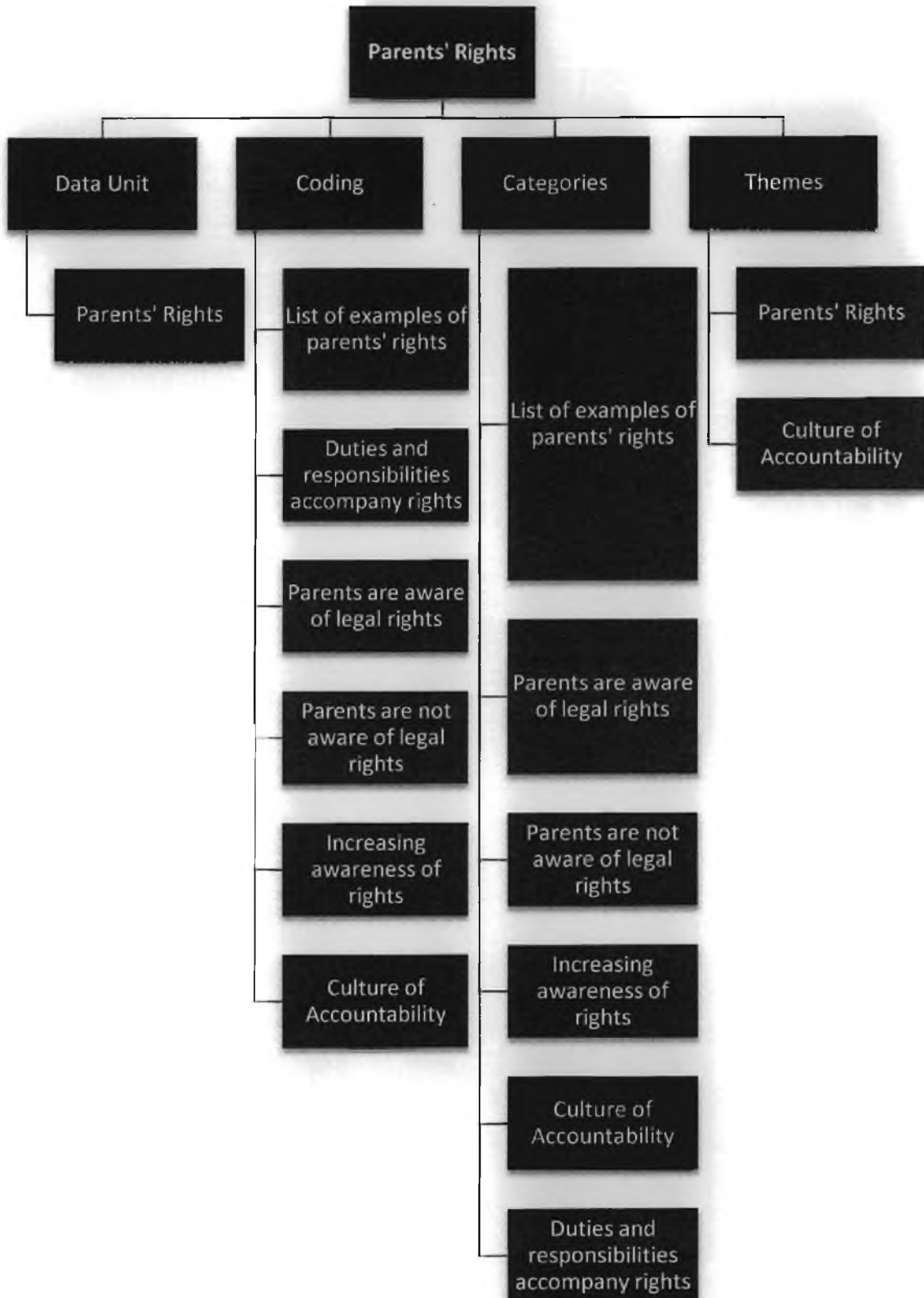
Initial Data Units of Educational Interviewee Transcripts in Preparation for Coding

- Primary and Natural Educator
- Parents' Rights
- Rights of the Child
- Choice of School
- Transition to School
- Home Education
- Involvement
- Educational Partnership
- Boards of Management
- Role of the Courts
- Role of the Law and Legislation
- Role of the State
- Role of the Catholic Church
- Role of the Teacher Unions
- Role of the Colleges of Education
- Dominant Stakeholders in Education
- Limited Stakeholders in Education

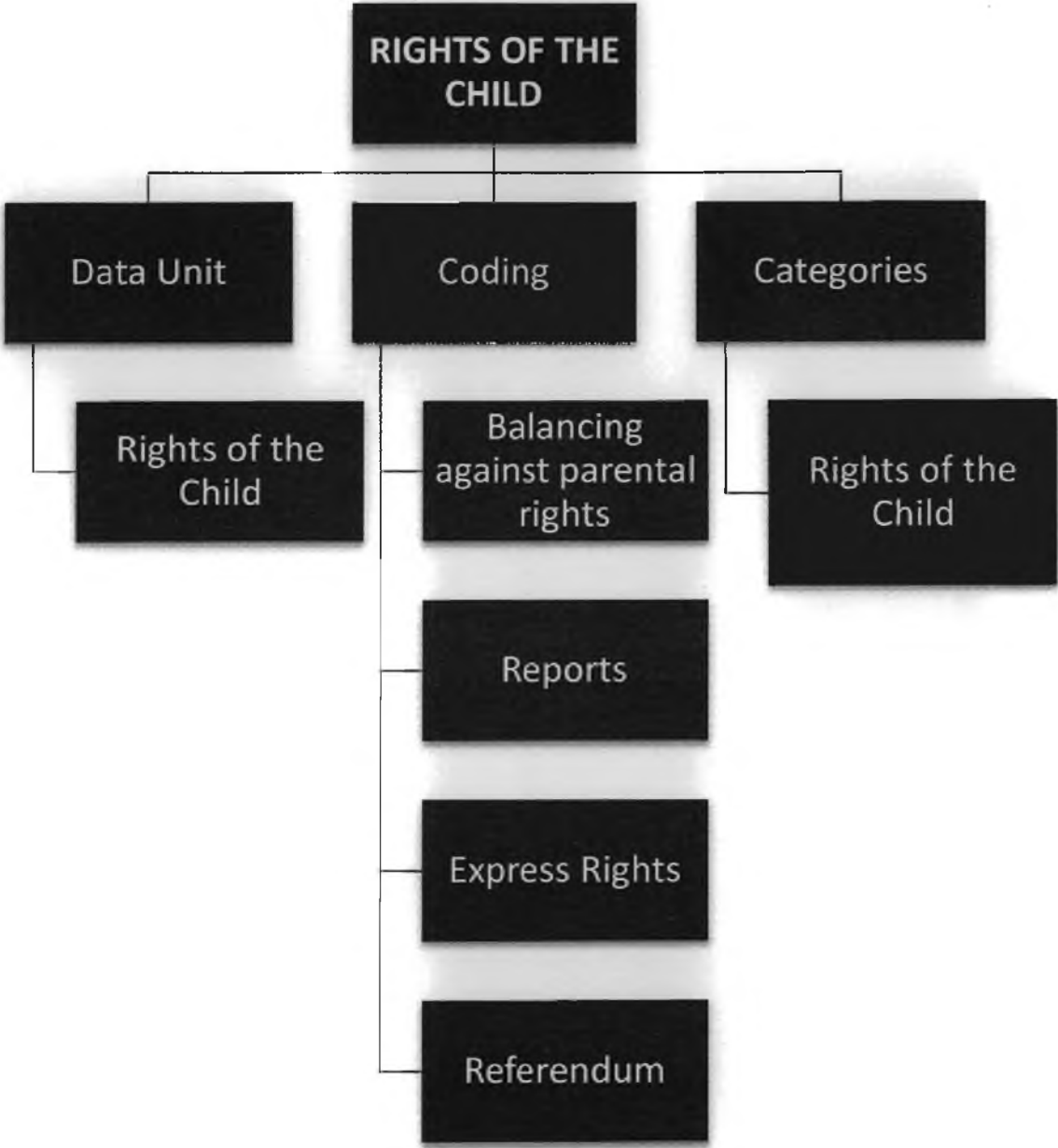
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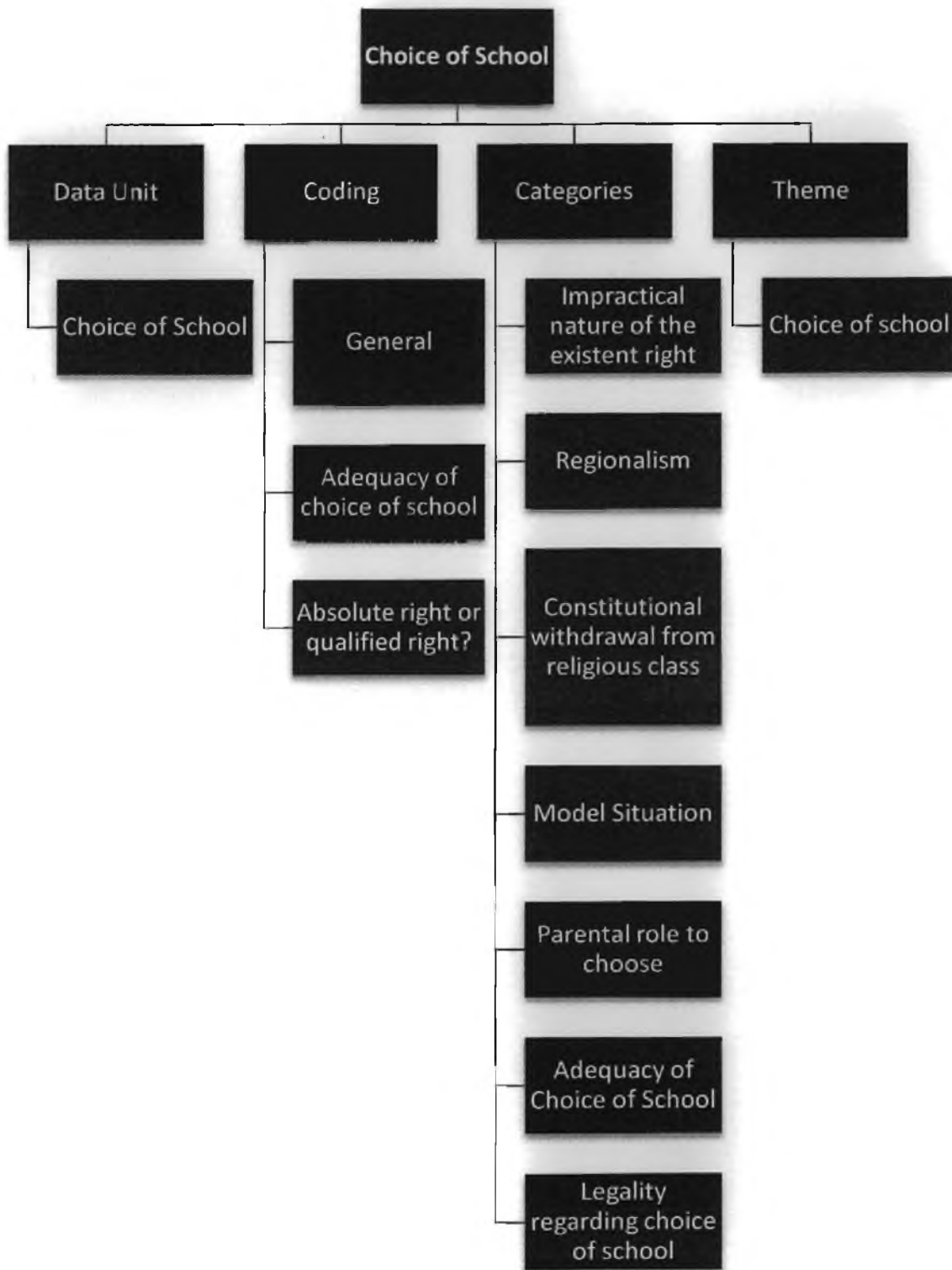
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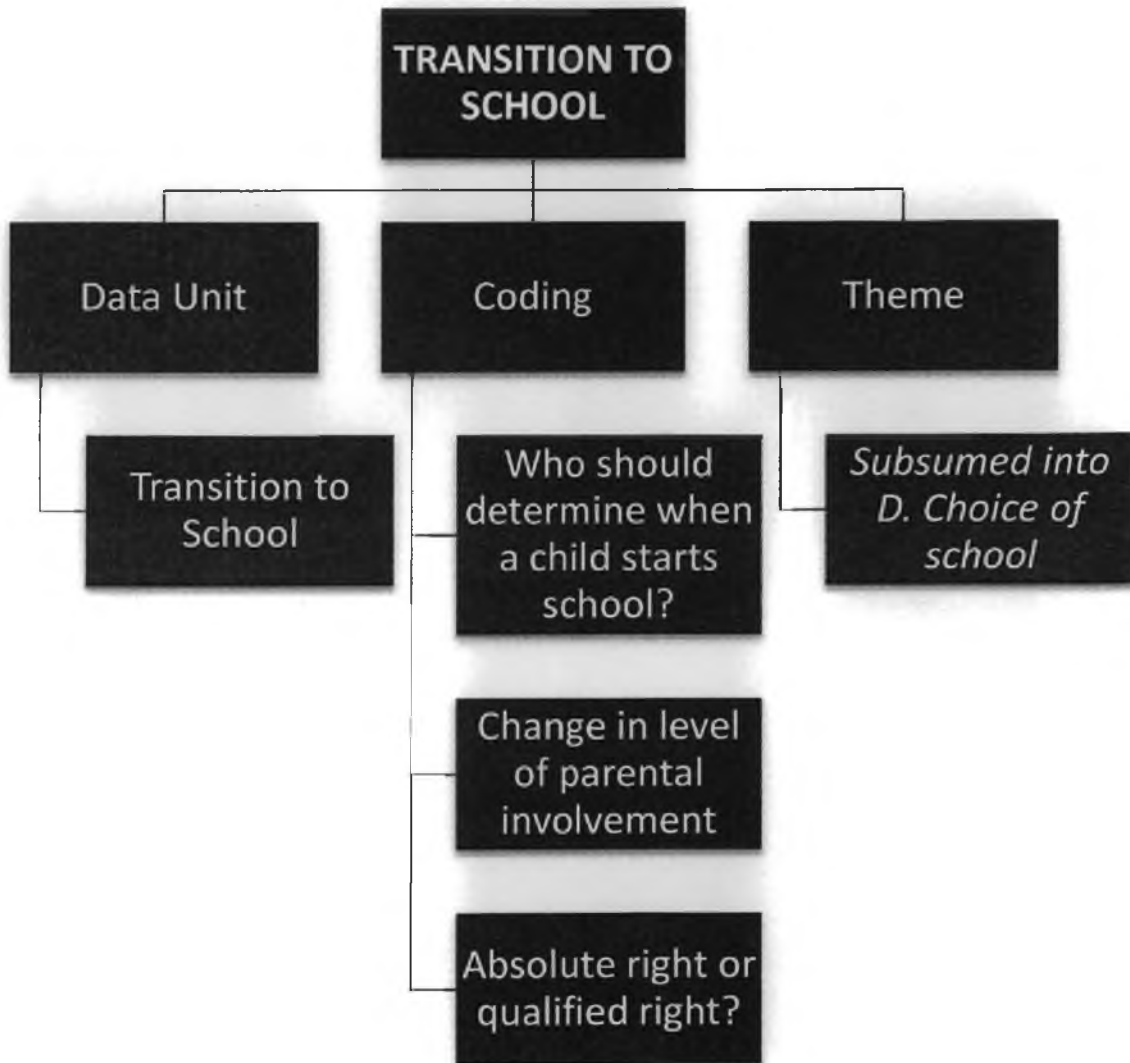
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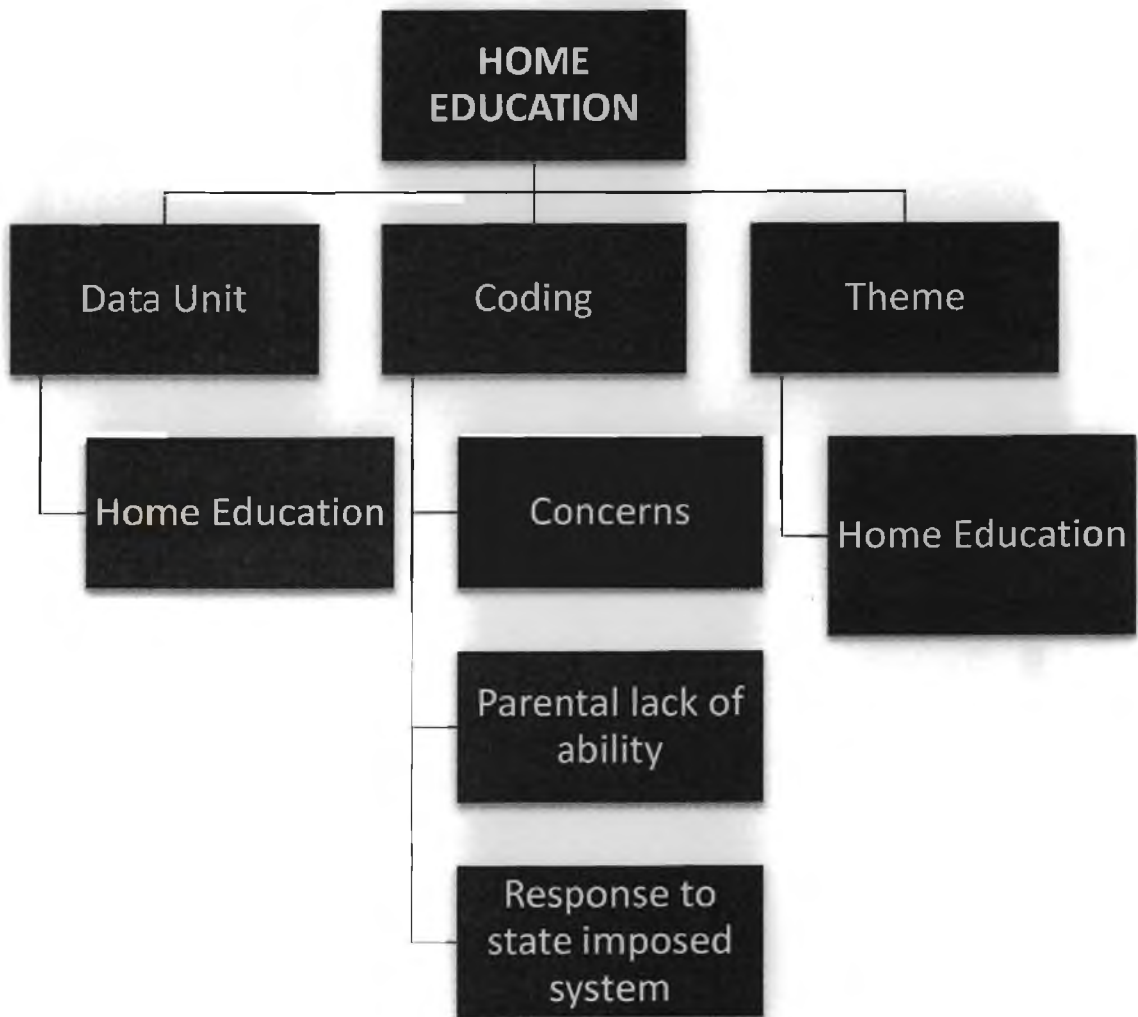
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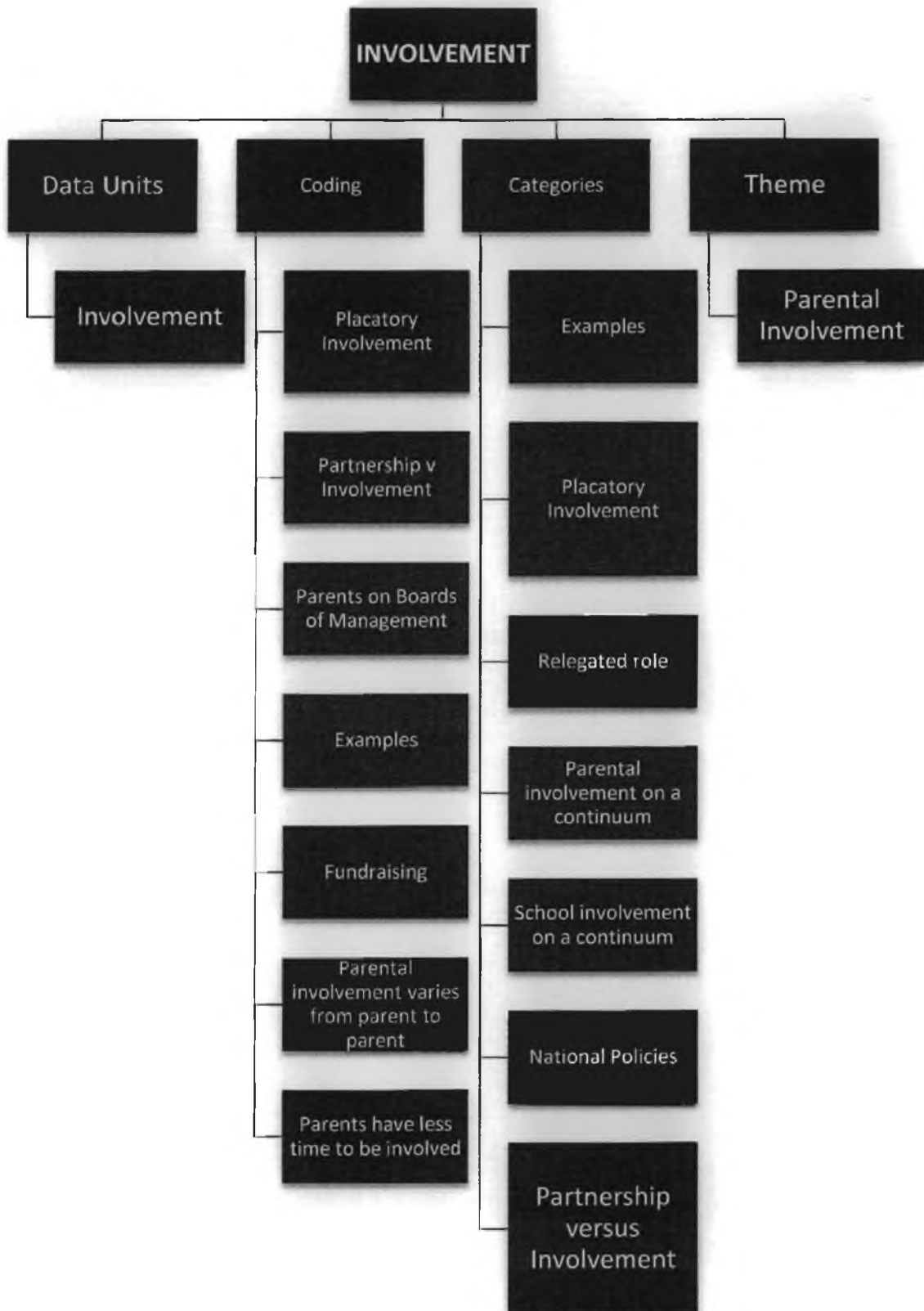
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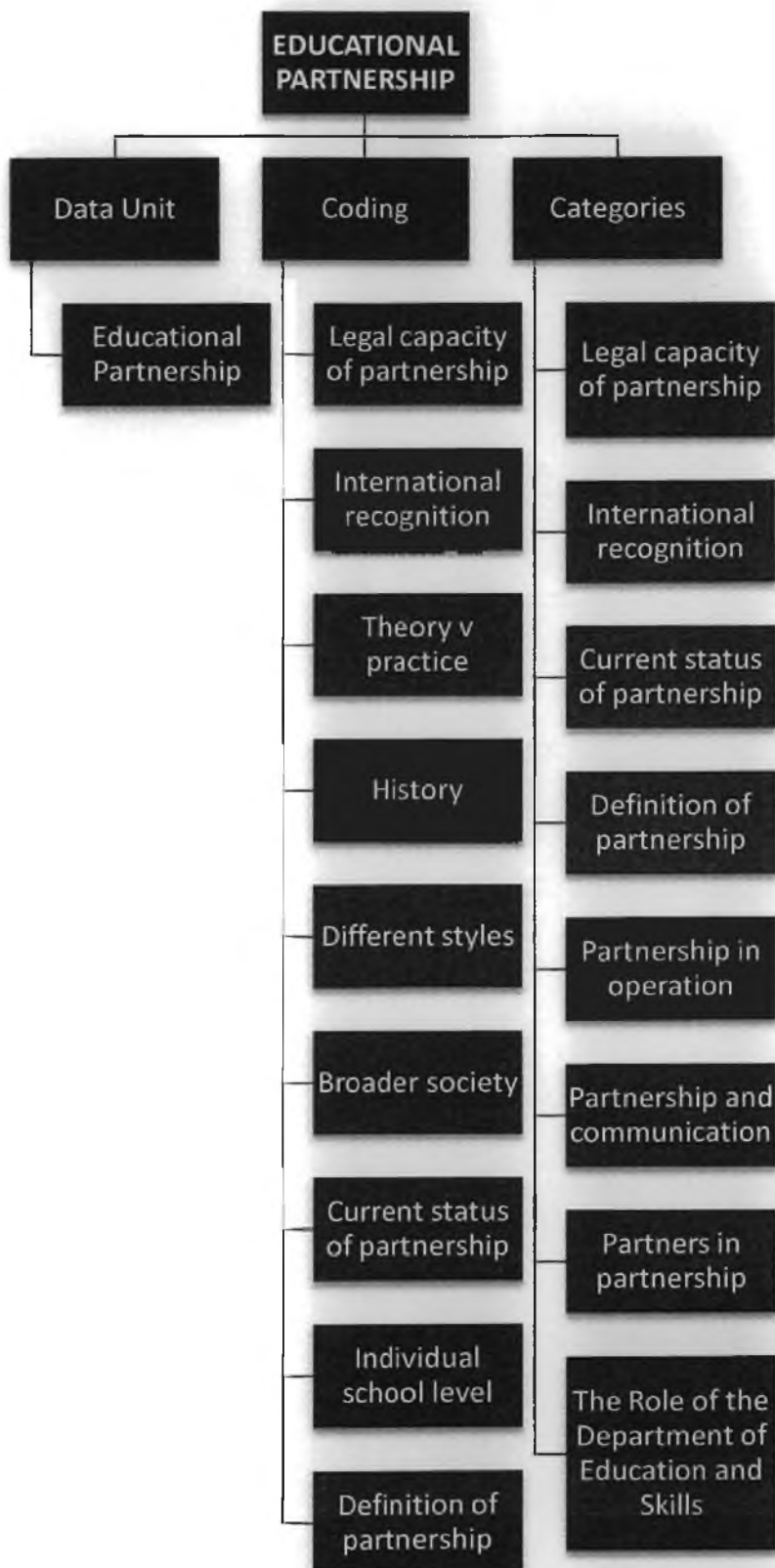
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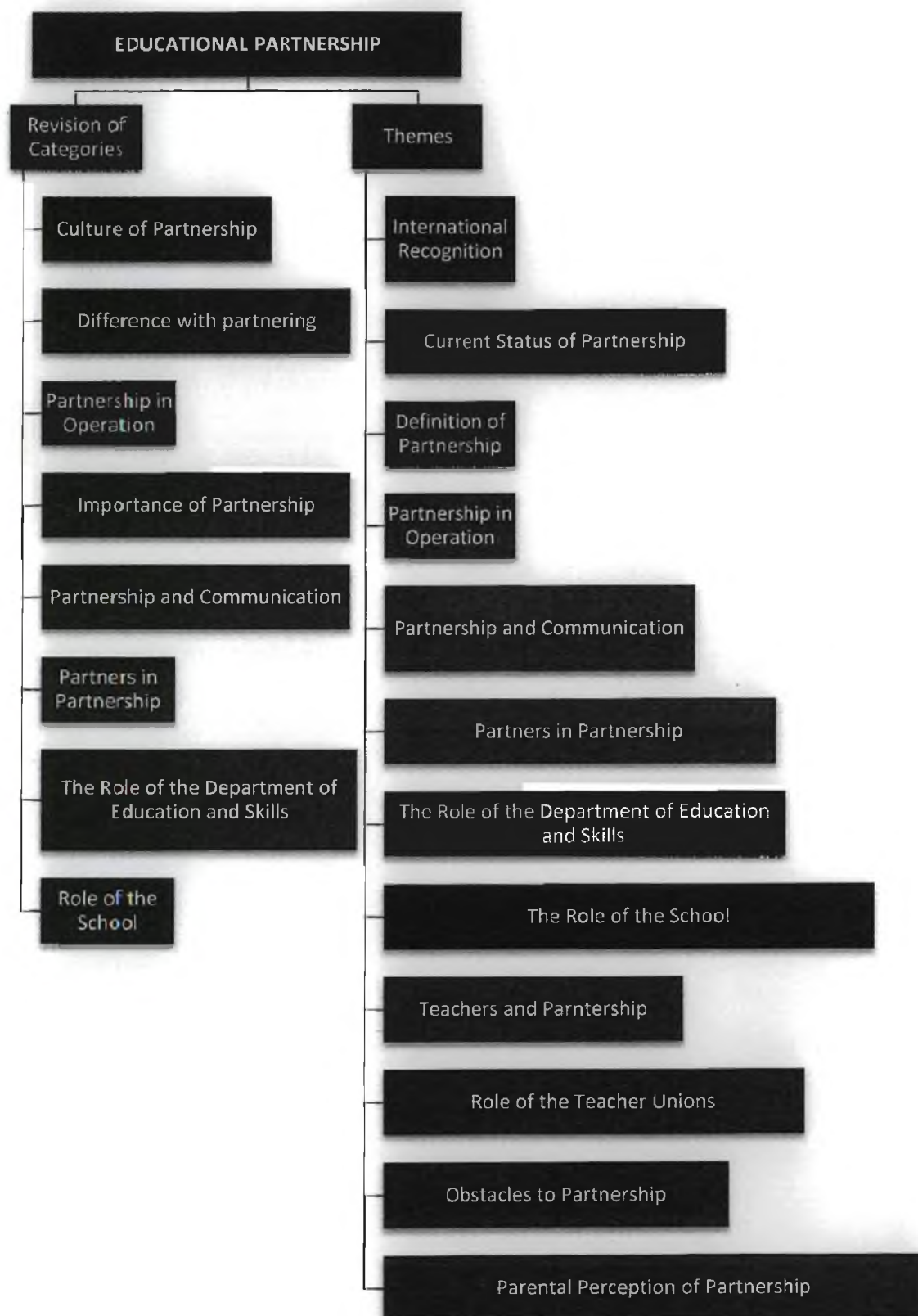
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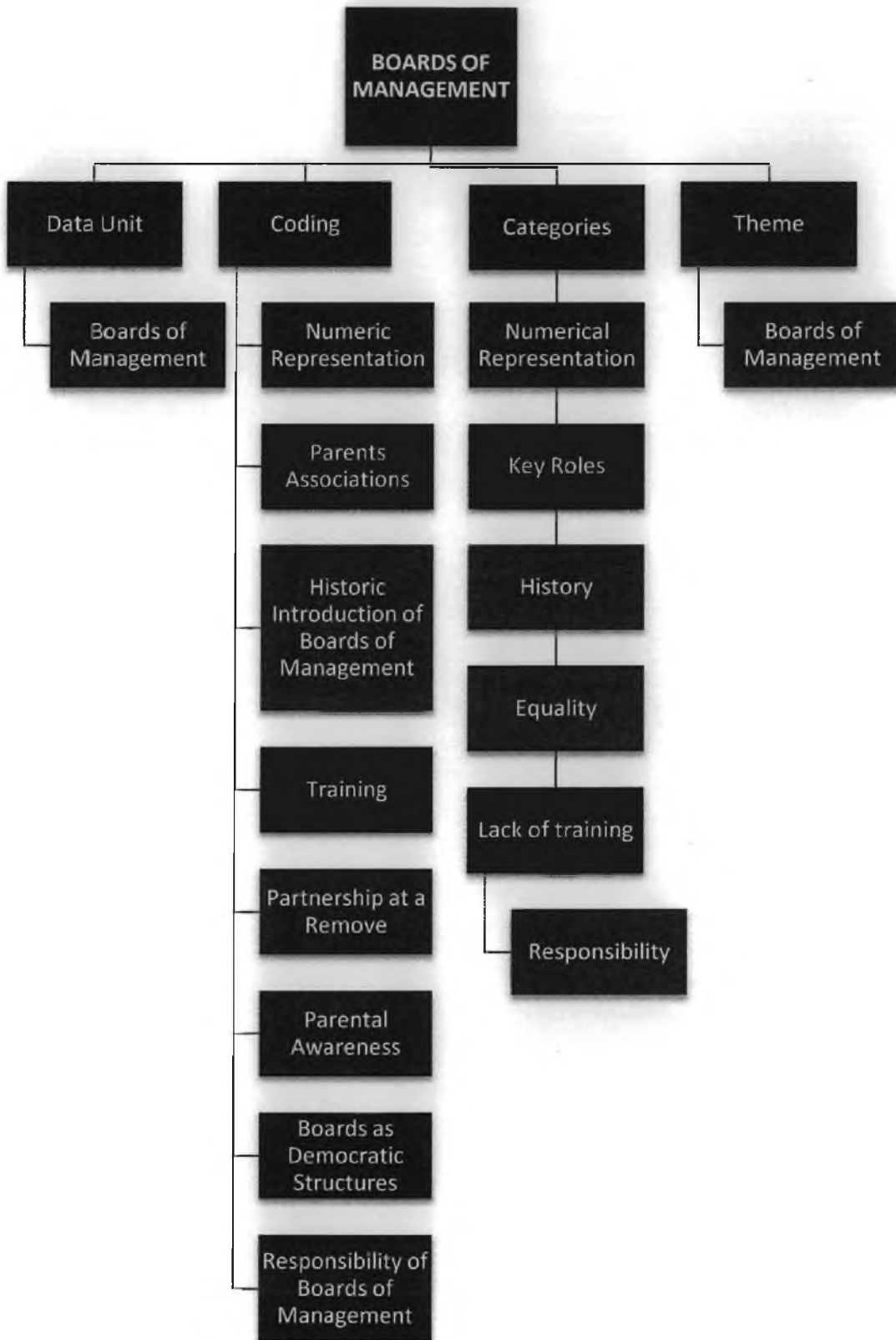
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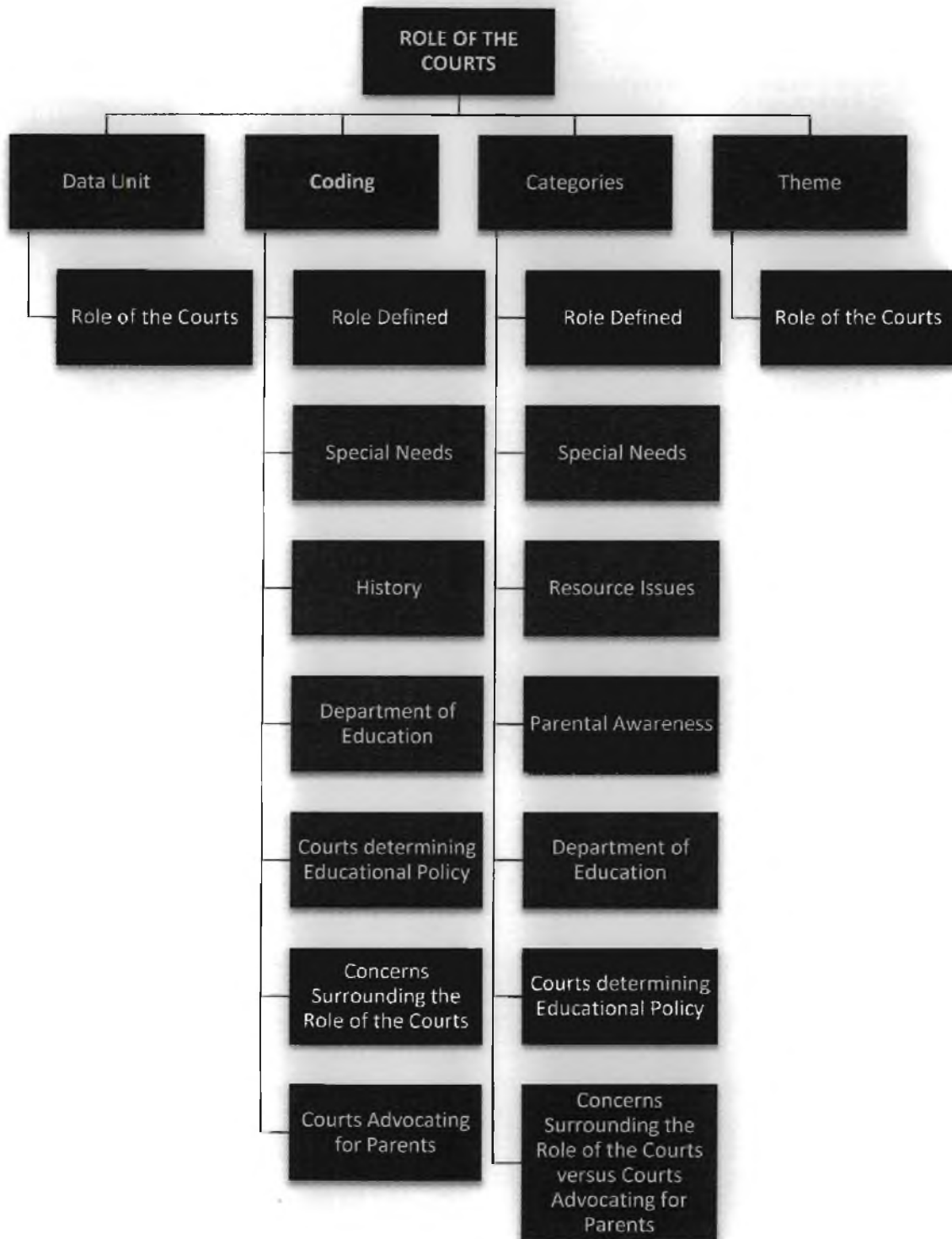
H. Educational Partnership *Continued*



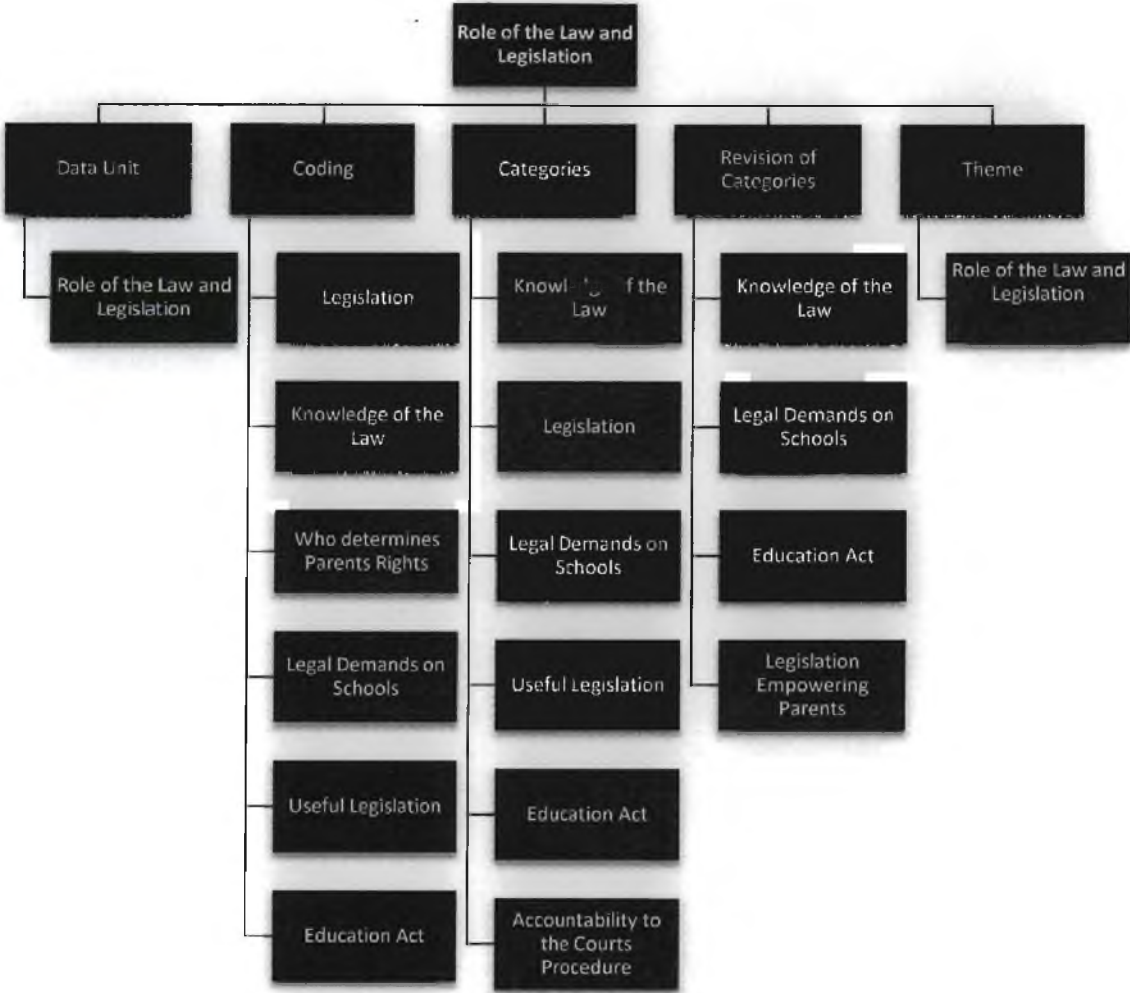
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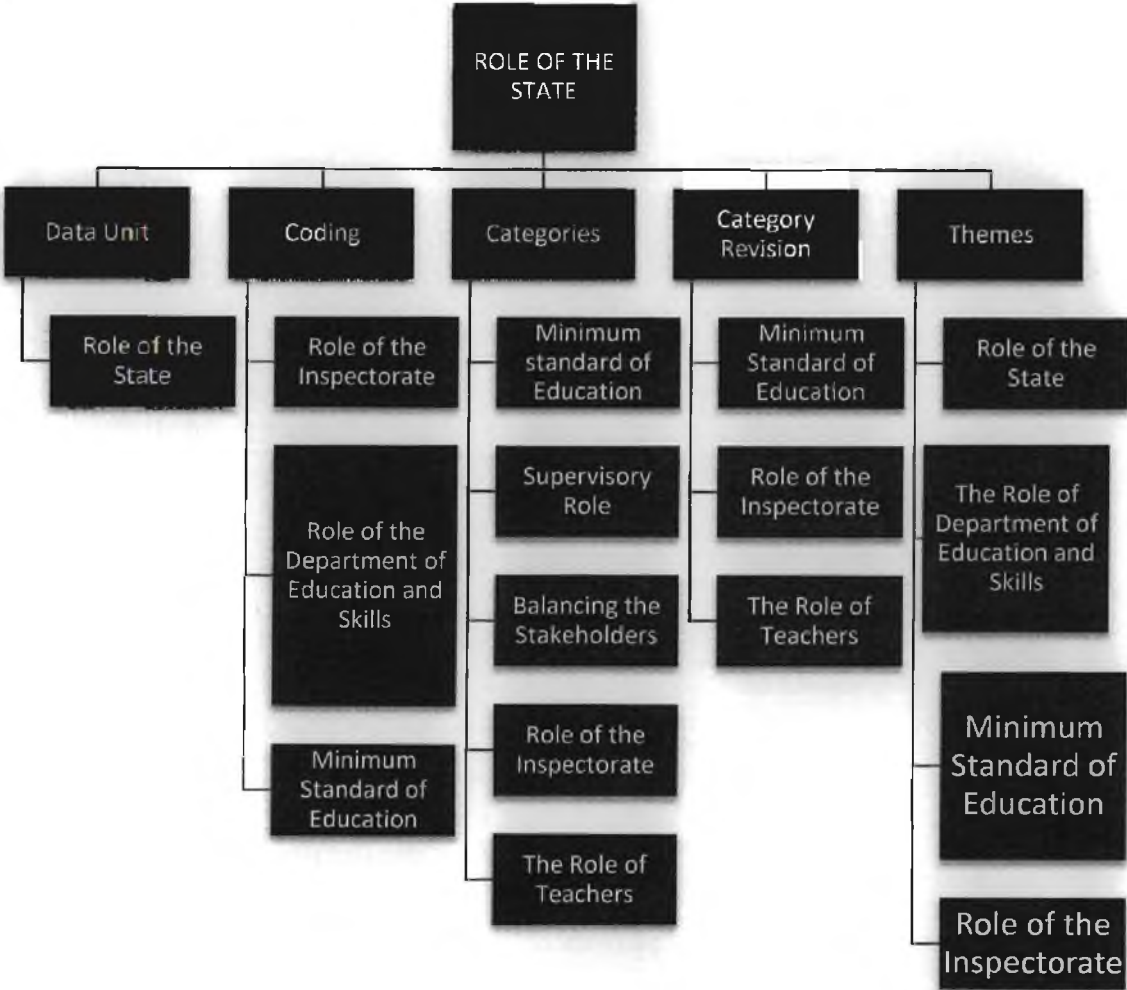
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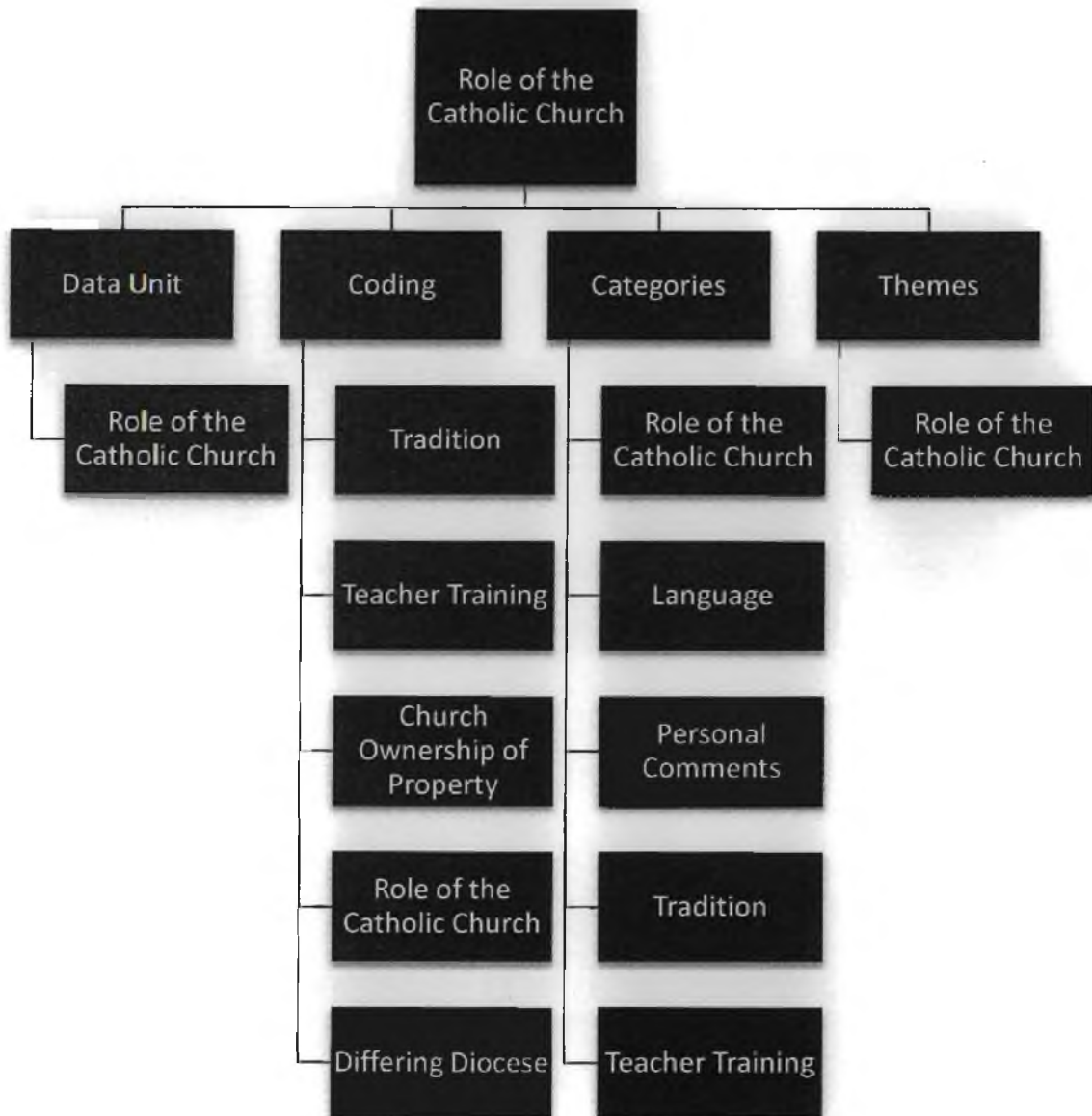
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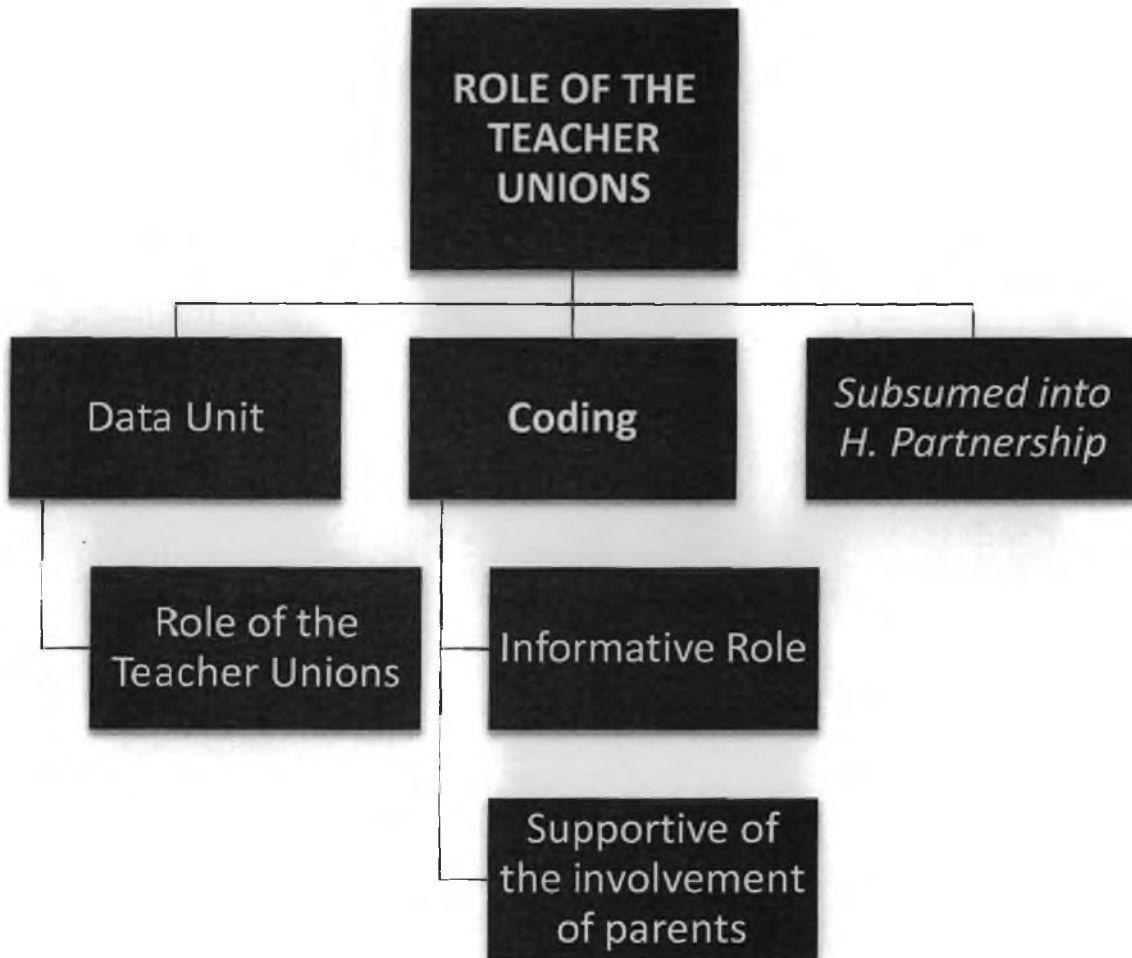
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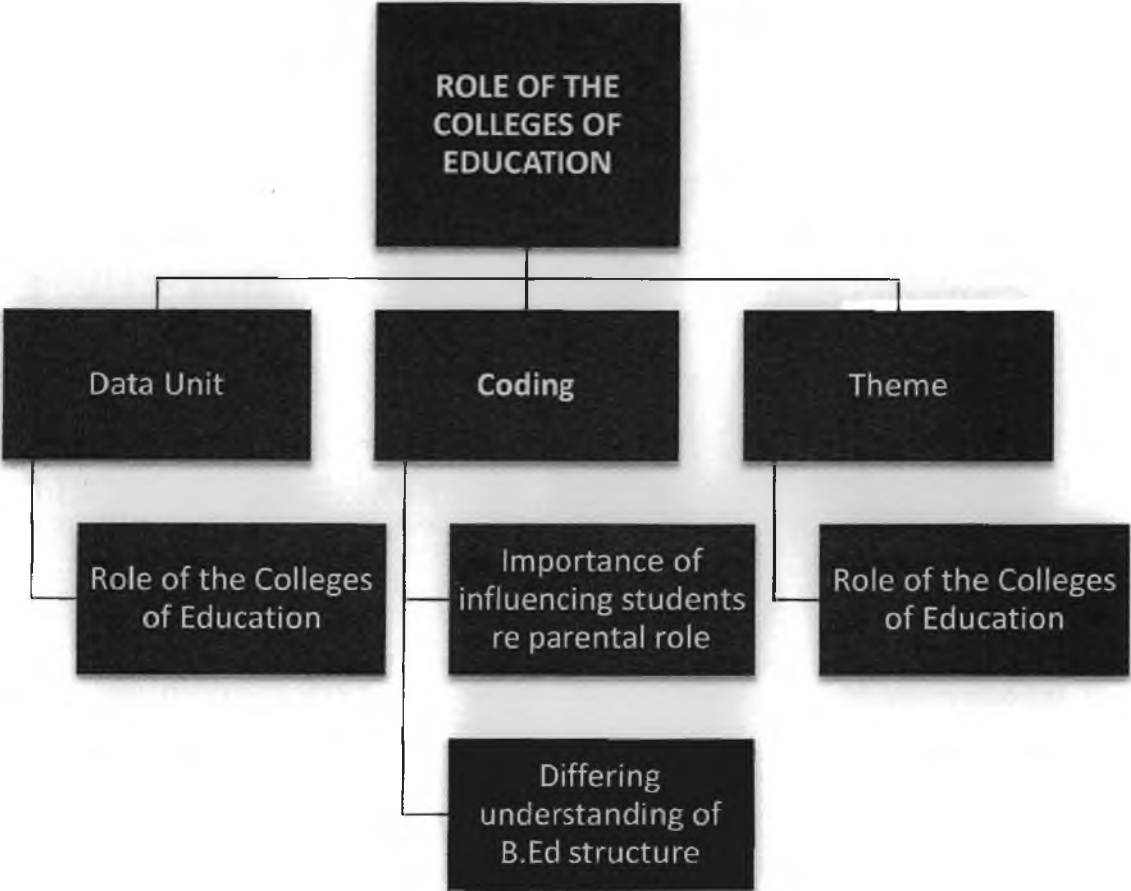
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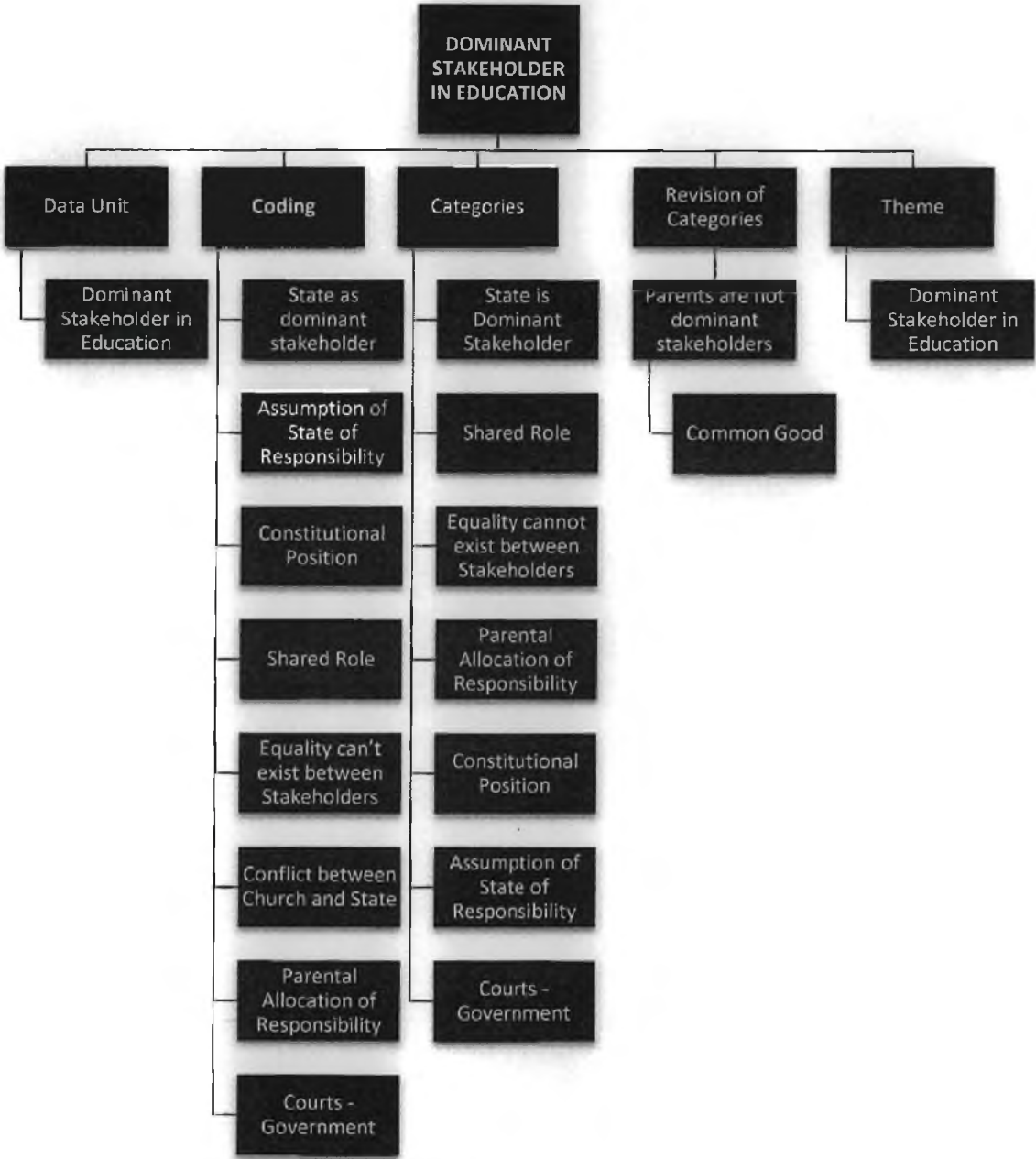
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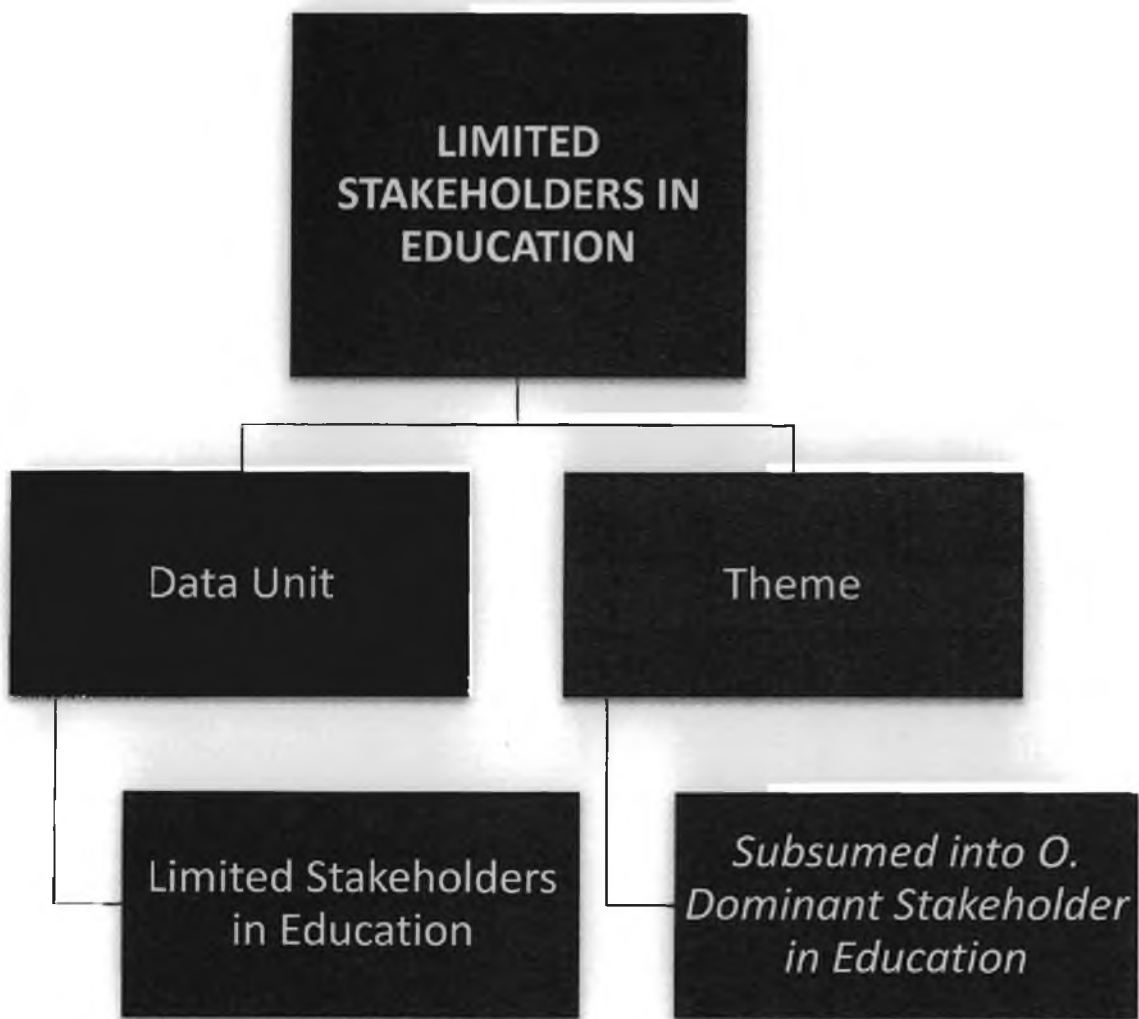
APPENDIX 27



APPENDIX 28



APPENDIX 29



APPENDIX 30 [Continued overleaf]

Emergent Themes from Education Interviewee Transcripts [Presented in Chapter 5]

5.1	Presentation of Educational Interviewee Data
5.1.1	Primary and Natural Educators
5.1.1.2	Natural Educator
5.1.1.3	Primary Educator
5.1.2	Parents' Rights
5.1.2.1	Culture of Accountability
5.1.3	Rights of the Child
5.1.4	Choice of School
5.1.5	Home Education
5.1.6	Parental Involvement
5.1.7	Educational Partnership
5.1.7.1	International Recognition
5.1.7.2	Current Status of Partnership
5.1.7.3	Definition of Partnership
5.1.7.4	Partnership in Operation
5.1.7.5	Partnership and Communication
5.1.7.6	Partners in Partnership
5.1.7.7	Role of the Department of Education and Skills
5.1.7.8	Role of the School
5.1.7.9	Teachers and Partnership
5.1.7.10	Role of the Teacher Unions
5.1.7.11	Obstacles to Partnership
5.1.7.12	Parental Perception of Partnership
5.1.8	Boards of Management
5.1.9	Role of the Courts

- 5.1.10 Role of the Law and Legislation
- 5.1.11 Role of the State
 - 5.1.11.1 Role of the Department of Education and Skills
 - 5.1.11.2 Minimum Standard of Education
 - 5.1.11.3 Role of the Inspectorate
- 5.1.12 Role of the Catholic Church
- 5.1.13 Role of the Colleges of Education
- 5.1.14 Dominant Stakeholders in Education