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**A Capabilities Approach to Freedom of Employment**  
**Hierarchical capabilities**

A thesis  
submitted in partial fulfilment  
of the requirements for the degree  
of  
***Master of Social Sciences in Arts and Social Sciences***  
at  
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by  
**Damian Blight**



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## Abstract

When people in New Zealand are unhappy with their current employment, they are often advised to find a new job. Implicit here is the assumption that a new job will be better, but it is not entirely clear that this is always the case. In this thesis I aim to navigate the complexities of this suggestion in order to ascertain whether or not the task of finding new employment, that is more meaningful to the individual, is as simple as it sounds. To do this I have developed a hierarchical chart, in combination with the capabilities approach from Amartya Sen. The capabilities approach allows us to focus on the options that are available to the individual, rather than ensuring that everyone is given access to everything, including things that they do not need. By looking at freedom of employment as a capability, we may identify meaningful options for individuals even if some options are closed off to them. However, if there are not enough available options then individuals may lack access to meaningful freedom of employment.

By ordering the capabilities that are required for individuals to enjoy meaningful freedom of employment into a hierarchy, I am able to structure them such that any necessary capabilities can be investigated based on how many available options individuals have to achieve them. I will investigate three main groups of capabilities that are required by individuals in their pursuit of meaningful freedom of employment; find meaningful employment, achieve education and training, and receive adequate government intervention, to see if there are adequate options available for individuals to have access to meaningful freedom of employment. Employment plays a large role in the ability of individuals to live a life that is meaningful to themselves. For this reason, it is important that individuals have access to freedom of employment in a meaningful way.

The capabilities of individuals may be obstructed through power discrepancies between the government, employers and employees, which the capabilities approach is able to highlight. In later chapters I will discuss who ought to keep their finger on the scale and offer some suggestions in the conclusion as to how this may be achieved. Using this approach, I hope to provide some additional insight into the complexities of meaningful employment, which may be used to develop new policies to ensure access to the capabilities that are required for meaningful freedom of employment for everyone who resides in New Zealand.

## Authors Preface

Freedom of employment is a vital component of keeping balance in any capitalist society. This is because whether we are correct to do so or not, labour is treated as a commodity. This has ramifications for the employee since their labour is often the only commodity that they are in possession of to sell, in order to afford the costs of living.

This thesis was inspired by Elizabeth Anderson and her writing about the dictatorial nature of the contemporary workplace, which led me to question if finding another job really will add meaning to the life of most employees. My research has led me across multiple disciplines, some made it into my writing while others did not. I appreciate the hard work and effort that has gone into preparing every piece of work that is referenced herein, especially so for those unnamed individuals who have put in the hard work to prepare graphs and charts that are available under creative commons for the likes of Stats NZ, Figure NZ, etc. Your names may not be known, but your efforts are truly meaningful. I would also like to extend a special thank you to all of those who have told me to “find another job” whenever I have complained about my own unfair working conditions in the past, you have inspired my entire university career.

The road to completing this research has been tough, most often due to my own procrastination and stubbornness. For this reason, I believe that I owe my main advisor Dan Weijers a mountain of gratitude, you have been so patient with me, and I am very aware that I haven't made it easy. I would also like to thank Jeremy Wyatt for agreeing to advise me after I extended into Dan's study leave, your guidance over the past few weeks has been invaluable. So has the help, guidance, conversation, and friendship of everyone that I have had the honour of learning from at the University of Waikato, including fellow students. I read in other examples of an author's preface that most people refer to you as colleagues, I mean no disrespect by not calling you as such, I just don't feel that I have earned the title yet.

I also need to thank my partner, my two daughters and my mum. Although most of you had no idea what I was talking about you let me talk, and you will never know how much that helped. This is double for my partner, since we also work together, she has had to listen to me talk for up to twelve hours a day sometimes.

Fittingly for this thesis, my final thanks must go to my employer, for being so flexible with my hours while I completed not one degree like we agreed but continued for an additional two years to complete a master's degree as well. With a family to support, maintaining full time employment and the ability to afford the costs of living while I have studied was the only way that this was possible for me. I may not have found employment that I find to be meaningful yet (sorry), but my capabilities have definitely expanded over the past five years thanks to you and a little push from my partner.

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## Chapter one

### A Capabilities Approach to Freedom of Employment.

#### 1.1. Introduction

Freedom of employment is not often thought of as being an endangered right, however I believe we have some reason to investigate this on a practical level. In this chapter I will investigate how it is that we have freedom of employment in New Zealand and what it means for those who reside here. I will use resources from the New Zealand Bill of Rights Act 1990 and the New Zealand Human Rights Act 1993 to ground our freedom of employment within New Zealand law. I will then discuss what purpose freedom of employment is intended to play within society and why adequate access to this right is one of the most fundamentally important aspects to any properly functioning capitalist state. For this I will refer to the works of Elisabeth Anderson, who has written extensively about the egalitarian foundations of capitalism and its understandable failure to adequately govern our contemporary employment structure.

I will require a framework for my investigation. The *capabilities approach*, developed by Amartya Sen (1979), as a framework to replace utilitarianism in the context of understanding human rights and poverty issues, will be my chosen framework for assessing access to freedom of employment for the inhabitants of New Zealand. Rather than being concerned with which goods should be distributed among the public, the capabilities approach is concerned with what options people have to choose from, when it comes to what one may wish to do or be. As written by Sen:

“A person’s ability to do valuable acts or reach valuable states of being... The capability of a person reflects the alternative combinations of functioning the person can achieve, and from which he or she can choose one collection. (Sen 1993, p. 30-1).

Since money, and therefore employment (for most people) is inherently linked with the capability to achieve most things in current society, employment and the freedom to choose how and where one is employed, and the conditions under which such employment takes place, is paramount to achieving the “[A]bility to do valuable acts or reach valuable states of being” (Sen 1993, p. 30-1), for most people in New Zealand.

Since my purpose here is to determine whether our right to freedom of employment is accessible for everyone in New Zealand specifically, I will use my own adaptation of Sen’s *capabilities approach*. It is my view that this is the best approach to take because it is a method that directly addresses one’s *capabilities* to achieve a *function* or goal, not merely ones *right* to do so. I will implement this approach by creating a simple easily understood hierarchal chart. Using an example, I will explain how the chart may be used to achieve a more comprehensive understanding of what capabilities one requires in order to achieve the desired goal of having unrestricted access to freedom of employment for citizens of their state.

## 1.2. Our Right to Freedom of Employment

We do not explicitly have freedom of employment in New Zealand, but as a relatively new country we should not be too surprised by this. The reason it was never written into our rights is because it was already there with the ones we inherited from English law. This came to pass in 1858 when New Zealand passed a law replacing any existing laws with those of the English legal system. This includes the adoption of our current system of *English common law* in New Zealand (Evans 2010, p. 1-1). This is carried through by section 28 of New Zealand Bill of Rights Act 1990:

“An existing right or freedom shall not be held to be abrogated or restricted by reason only that the right or freedom is not included in this Bill of Rights or is included only in part.”

This is further solidified in section 18.1 of the New Zealand Bill of Rights Act 1990, which provides the right to freedom of movement for all people who are lawfully in New Zealand. This is followed by section 19.1 of the act, which provides the right of all people in New Zealand freedom from discrimination on the grounds of discrimination as set out in the Human Rights Act 1993. Included in these grounds are numerous protections for both employees and applicants for employment under section 22. Such protections toward candidates for employment include non-discriminatory practices such as using discrimination of race, gender, sexuality, colour, religion, etc. as a means to treat any employee or candidate for employment in any way which may be deemed detrimental to the treatment of others. These protections of freedom regardless of the factors which make us different would not be required were there no freedom of employment in New Zealand.

Another indication of our freedom of employment in New Zealand is the number of exemptions to our freedom from discrimination in regard to employment within the Human Rights Act 1993. Sections 24.0 to 34.0 are all exemptions to our freedom from discrimination while seeking employment and include exemptions for; military employers, religious employers, Candidates for government positions, etc. We would not require these exemptions if we were not free to employ or seek employment otherwise. So, our right to freedom of employment is not stated explicitly in the New Zealand Bill of Rights Act 1990 as one may have initially expected but does appear to be supported by the Human Rights Act 1993, at least where it is not being restricted for national security or religious reasons.

To understand the right to freedom of employment better we need to differentiate between positive and negative rights, with positive rights referring to one's right to receive something, and negative rights being one's right to be free from something (Berlin 2002, p. 3). If freedom of employment is a positive right, then the state is required to ensure nothing is impeding citizens' ability to be free in terms of their capability to find employment. However, we encounter a problem in the face of negative rights often being more stringent than positive ones. Keeping in mind here that when Sen refers to valuable acts or states, he is referring to those acts or states deemed valuable by the individual performing or achieving them, not what any other individual, or group of individuals deem to be valuable, even should the 'other individuals' constitute the majority. This means the state must be careful to omit from being rights, such individually desired acts that may be deemed unsafe for other members of society, or else we may find ourselves in violation of other rights and freedoms of which people may have, such as the right not to be killed. In this vein, one ought not to be allowed the freedom to become a contract killer as a means of fulfilling their employment desires, for example. However, if one desires to become a doctor, they should be free

to pursue such a desire. The reasoning here is clear, in order to allow the one who wishes to be employed as a contract killer to achieve their desired means of employment, we would be advocating that they take away the negative right of other citizens not to be killed. It is the negative right of other citizens not to be killed that has the power to overturn the contract killers positive right to their desired employment, showing the negative right to be more stringent than its positive opponent. It is for this reason that the above non-discrimination laws are required, but an explicit law citing the positive right *freedom of employment* is possible but not necessary. This tells us that our non-discrimination legislation is built upon a foundational assumption that we have a natural right to freedom of employment in most situations.

### 1.3. The Importance of Freedom of Employment

Freedom of employment guarantees the right of all people who legally reside within New Zealand, by citizenship, permanent residency, or working visa, to be free to seek and maintain legal employment as they see fit for their own lives and wellbeing (with some conditions for working visa holders). Not only does one have the right to seek and maintain employment, but one also has the right to terminate such employment if one deems this to be the appropriate course of action for their own life. This is one of the most fundamental rights found in democratic capitalist states and is an absolutely necessary component to any market driven capitalist ideology, as I will show. This necessity can be seen when we consider the concept of supply and demand that is often cited by both scholarly and folk conceptions of the market. Folk examples of this can be seen in the news daily, in regard to the current housing unaffordability problem in New Zealand, which we will touch on below. For more scholarly examples arguing both for and against the concept, we simply need to turn to the works of Adam Smith, John Locke, John Stuart Mill, Elisabeth Anderson, John Maynard Keynes etc.

The concept of supply and demand is described in these spheres to be the perceived natural law which governs the price and conditions of all commodities within a market system, including the price and conditions of the commodity otherwise known as labour. This is not an unintended feature of capitalism, with one of capitalisms creators, Adam Smith, coining the phrase “invisible hand” (Smith, 1776) to describe the almost God-like behaviour attributed to the market’s ability to *govern itself*. However, without freedom of employment, employees would lose the only tool at their disposal to bring balance to the power structure of the employer/employee relationship and as a result, lose all bargaining power around their working conditions and the price that their labour commands. In order to understand this properly, we need to go way back to the purpose that capitalist (free market) ideology was intended for, and how that differs from our contemporary usage of the system. For this I will enlist the support of egalitarian theorist Elisabeth Anderson, and her recent book “Corporate Governance: How employers rule our lives and why we don’t talk about it”. In Anderson’s own words, in relation to the employer/employee relationship, capitalism is being used to govern “[A] world it does not remotely describe, either currently or in prospect” (Anderson 2017, p. 18). As can be taken from the title of her book, Anderson is concerned with the level of power that employers often hold over their employees. This power imbalance, Anderson argues, is not an intended feature of the capitalism envisioned by Smith or the levellers that came before him, and it is important here to understand why.

Capitalist thought was emerging during the 16<sup>th</sup> Century, and by the 17<sup>th</sup> Century had begun to take hold around England and Europe (Hughes 2017, p. 82). Capitalism had been developed by those living under a feudal system, where citizens were tired of endless labour for little gain after taxes, and the inability to own land privately induced high rents. This arrangement left most people under a situation of subservience to others at almost all times, and left citizens vulnerable to be taken advantage of by the 'lords and ladies' of the era.

"The national income of England doubled at least in the century up to 1640, but as in other periods, the benefits of this expansion were unevenly shared, and the results were greater inequality and increased social polarization. It became less and less likely that an apprenticeship to an urban trade was a pathway to a comfortable life as an independent artisan or businessman; many hopeful young men faced a lifetime as journeymen or labourers." (Hughes 2017, p. 82)

It was thought that capitalism, and with-it private land ownership, may allow more people to become masters of their own lives. In its simple form, capitalism empowers the individual to make use of whatever skills they desire to use and are competent at, in order to provide services or manufacture items which they may trade with others for money. The provider of services or products does so of their own will and charges a price that they are happy to trade for as compensation for their time and products. This craftsman does not work for their customer, they trade with them. Likewise, the customer is free to browse numerous market stalls or service providers to find one that they are happy with, both in terms of product or service quality, and price. The customer is also not beholden to their suppliers in any way, and each may leave their trade at any time, as free from each other as before the trade had commenced. In this way, capitalism is thought to create a society of free equals. Not equals in material wealth, but in terms of social standing, with no one subservient to the other. (Anderson 2017, p. 1-19)

Fast forward to the late 18<sup>th</sup> century and we see the use of steam power bring about the development of machinery and the beginnings of mass production, the industrial revolution (Hughes 2017, p 83). This allowed the owners of capital; land, buildings, etc. to build factories which could produce far more products for much less cost than the individual craftsman is capable of. Factory production also allows for uniform production quality and trust within the market. Unfortunately, this combination would drive out the individual craftsmen, and give them a new role within society as traders of their labour. Jump ahead again to today, and we once again live in a world where the majority of people are subservient to others, the owners of capital, if we wish to earn money to survive, despite taking on capitalism as an economic system designed to fight this exact problem. (Anderson 2017, p. 1-19).

The problem here should be clear, this timeline allows for almost 200 years between the conception of our current economic system which is designed to govern our trading interactions, and our current mode of production. Capitalism is not designed to protect those who sell labour, it was designed to remove the requirement for them to do so. The industrial revolution brought with it a mass demand for wage labour, along with unbeatable competition for the free craftsmen of capitalism. Capitalism as a system is not able to distinguish between an individual or a machine. Furthermore, it naturally rewards whoever has the best price and quality. This is not a recipe for the prosperous development of the kind of capitalism described by Anderson's interpretation of Smith

and as a result, we are left with an economic system that is simply not designed to cater for the overwhelming number of wage earners in today's capitalist societies.

Karl Marx is an important figure in confirming this relationship between capitalism and the industrial revolution if we compare his thoughts to the earlier thoughts of Smith. Viewing capitalism from a post-industrial revolution standpoint, Marx paints a very different picture to the one envisioned by Smith.

“He, who before was the money-owner, now strides in front as capitalist; the possessor of labour- power follows as his labourer. The one with an air of importance, smirking, intent on business; the other, timid and holding back, like one who is bringing his own hide to market and has nothing to expect but— a hiding.” (Marx 1867, p. 195).

In Marx's description the possessor of labour-power, or the employee, does not conjure the image of the society of free equals of which capitalism so tantalisingly promised and it once again is the overwhelming requirement for people to sell their labour that is in question. In today's world, those without capital are left with limited options if their current employment is not satisfactory or undesirable. The possessor of labour-power may seek meaningfully different employment. The more industrious may attempt to become an independent craftsperson or service provider, or some may either choose to or be forced by the market into attempting to maintain their lives while unemployed. In a world where nothing is free in terms of financial value, this may not be a possible task. This makes the right to freedom of employment, being the employee's only available bargaining tool against employers, ever more important and leads Anderson to propose the very question around the availability of freedom of employment that I will be focusing on in this and subsequent chapters: Are we truly free to seek, obtain, and exchange employment without undue hindrance or risk to the wellbeing of our lives?

#### 1.4. A Lack of Freedom will Take its Toll

In capitalist society, money is exchanged for goods and services. For this reason, *income* has a direct association with one's ability to access the necessities required to live a meaningful life within capitalist states. We can call these necessities *outgoings*, and we require our income to be of a sufficient amount that all outgoings are accounted for. Since the main source of income for most people is paid employment, and the price of the commodity *labour* is set through the concept of supply and demand, then freedom of employment is a requirement for the system to function properly. There are differing ways in which the balance between income and outgoings may be negatively affected if there is undue restriction on freedom of employment. For example, if the price of labour was fixed due to people's inability to exercise their right to freedom of employment, but the cost of housing increased due to natural population increases placing higher demand on the same quantity of land, then it should be fair to assume that the cost of living for most households living within such a society would rise sharply compared to their household income, similar to what we can see in Figure 1:

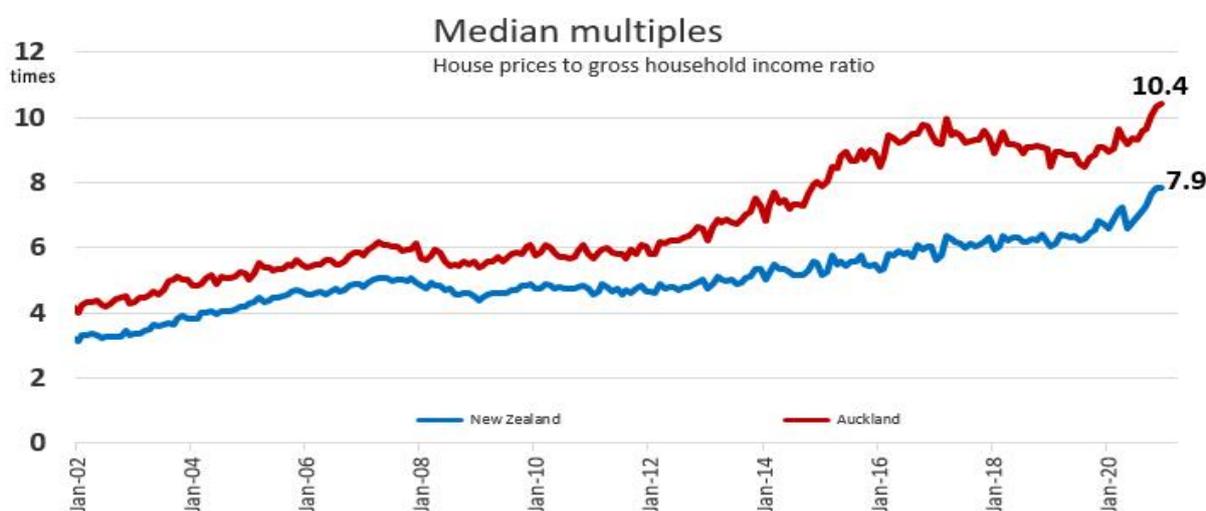


Figure 1 (Source: Stats NZ and licenced by Stats NZ for reuse under the Creative Commons Attribution 4.0 International licence. Found on Figure.nz).

We may not have a situation quite so dire as completely fixed wages in New Zealand, but we can certainly see the current effect that decades of land prices outpacing wage increases has had on the affordability of home ownership.

The beginning of the century saw New Zealand's inhabitants in a much better place than today, with the median house price only marginally over three times the median household income. This is in stark contrast to the way we closed out 2020, which saw the median house price sitting at around eight times greater than the median household income. If Kiwi's are paying a higher percentage of their annual income for housing than they were twenty years ago, then they are necessarily left with a lower percentage of their income for leisure and other expenses. This situation is not sustainable, the eventual result, if we follow this trend is complete housing unaffordability for most. However, we should expect a fall in standard of living before this final result, we may even find this fall has already come for some. It is hard to imagine any fall in standard

of living being uniform for all, due to individual preferences, variation in income across different occupations, variation in social standing, variation in personal obligations, family size, etc. The inherently human condition of individuality means that due to the above variations (which is by no means a complete list), some members of society would suffer more than others. This is because we were neither starting from, nor heading to the same places. Some government departments and social institutions may not be immune either. Higher rates of poverty may place strain on physical and mental health facilities, and crime rates would likely rise as seen in other states where wealth gaps are largest (Papaioannou, 2017). In a paper titled “Hunger makes a thief of any man” Kostadis J. Papaioannou compares the effects of periods of lower income on crime rates in Southeast Asia over a 30-year period between 1910-1940. Using rainfall records as a gauge to determine poor rice harvests, Papaioannou was able to identify periods with higher rates of poverty as having a positive correlation with periods of higher rates of property crime. While these poor rice harvests were caused by weather conditions and have no relation to freedom of employment, poverty is still poverty, whether caused by poor harvests or expensive housing relative to income. Furthermore, unless we are to assume, in error, that specific geographic locations somehow cause humans to be born less ethical than others, then we must entertain the idea that perhaps the residents of Southeast Asian countries, between the years 1910-1940 were not presented with many capabilities to obtain an income legally once their crops had failed.

This phenomenon is known as the effect of scarcity and has been discussed in more detail by Anuj K. Shah, Sendhil Mullainathan, and Eldar Shafir in their article entitled ‘An Exercise in Self Replication’ in which they argue that greater levels of scarcity actually contribute to those who are worse off making poorer life decisions due to dwindling *mental bandwidth*. Shah and colleagues (2012) came to their conclusion based on a series of empirical studies designed to test their subject’s attention, decision making, and numerical competency while under different types of *scarcity*-based stress. One of their studies focused on seasonal workers in India. The workers income came in large swings throughout the year. During their trials they found the same test subjects dropping by up to 14 I.Q. points at times of increased financial stress. In the real world this results in those dealing with the effects of scarcity taking on unrealistic debt and making poorer behavioural decisions, which may further entrench their situation. The self-replicating nature of *scarcity mentality* makes this an exponential problem, if those who require meaningfully different employment are not functioning to their full mental capacity, they are less likely to be successful in their endeavour.

From these examples we can see that freedom of employment has far ranging effects and should be seen as the cornerstone of a free and democratic society that chooses capitalism as its preferred method of distribution. Keeping this in mind, it is the fundamental nature of rights that if one should have a right to something in any meaningful way, one must also have the capabilities to exercise said right, it is not enough to pay lip-service only. Therefore, any attempt to assess the credibility of our right to freedom of employment must address the capability of all people imbued with such a right to achieve employment of a type that satisfies their employment desires. This is where the *capabilities approach* originally formulated by Amartya Sen in the form of a lecture in 1979 named “Equality of What” would seem custom built for the job.

### 1.5. Capabilities Approach as a Framework

The capabilities approach has been built upon the earlier work of highly influential thinkers in relation to three of the main aspects at play when we talk about the right to freedom of employment within our democratic capitalist society: Smith, Mill, and Marx and Rawls. Adam Smith, as discussed by Anderson, saw capitalism as an egalitarian endeavour (Anderson, 2017). Libertarian philosopher, John Stuart Mill, argued in favour of maximising citizens freedoms to choose for themselves, since that is what makes them happy. Mill also allowed for the usage of positive vs negative rights to limit some freedoms, similar to section 1.2 above (Mill, 1869). Karl Marx, whose views we discussed earlier, and John Rawls, whose social contract theory is an attempt to overcome the failings of utilitarianism toward the individual.

Rather than attempting to form a theory of wellbeing, the capabilities approach, as proposed by Sen, is a framework that such a theory, or indeed theories, may be built upon. In this regard, the capabilities approach does not proceed to tell us what goods should be distributed within society. The capabilities approach incites us to identify what capabilities individuals may require in order to obtain the goods and achievements necessary to live the life that they themselves feel is worth living. Sen calls these goods and achievements *functionings* and argues that the identification and protection of the capabilities one may require in order to achieve such functionings is paramount to creating a theory of a just society (Sen, 1979). To put this into simpler terms, what is being argued here is that if one is to have the right to watch television in a meaningful way, then they must also have the capability to watch television. This requires one to have access to a television set either through ownership or some other means, knowledge of how to work a television, time to spend watching, and the availability of television broadcast signals in the area. If we were to remove access to the use of a television set by pricing them out of most people's income bracket, then we cannot truly say that everyone has all of the capabilities required to achieve their right to watch television. Therefore, we can effectively make the right for some groups of people to watch television pointless by making it practically impossible to do so, while technically being able to say that we have retained their right to watch television. This same tactic can be seen by *technically* democratic electoral systems in states that only have one party to vote for, we cannot truly say that such a state is democratic in a meaningful way. Sure, everyone gets a vote, but their capability to vote for anyone other than the status quo has been limited to the point of practical impossibility.

The capabilities approach does have its critics, Dean (2009) argues that the capabilities approach fails to take into account the extent of human interdependency, the problematic nature of the public realm, or the exploitative nature of capitalism. "Dean argues that an emancipatory politics of needs would be better served by a discourse of rights than a discourse of capabilities." (Orton 2011, p. 358).

"There is a fetishistic tendency for people to condemn the dependency of others and to deny their own dependency; even when – paradoxically – they may celebrate their own dependability for loved ones, neighbours or friends. The basis upon which we construe the nature of our membership of society (our citizenship) and the claims that we have against each other (our rights and capabilities) is pre-dominantly liberal or 'contractarian': it assumes the individual to be an autonomous creature who survives by her bargaining with others." (Dean 2009, p. 267).

It may be true that people living under capitalism (at least) do in fact survive as somewhat autonomous creatures through their bargaining with others. However, this is a feature of the capitalist system that we have inherited, been educated to live within, and have legal framework which somewhat prevents one from removing oneself from the system. Since the capabilities approach has been developed from within the capitalist framework, as a response to societal problems perceived by Sen and others to have been created by the inequalities produced by capitalism. It is my view that the capabilities approach is not assuming citizens natural independence from one another, it is identifying citizens natural necessity to interact and be dependent on one another. Hence, the necessity to ensure that these interactions are done in a cordial manner.

In response to Dean's reasoning, the capabilities approach has been developed due to our human interdependency, if we were not dependent on each other there would be no need to govern our interactions because we would not need to have any, we could simply keep away from each other. I agree that the public realm can be problematic. Within capitalist society individuals are expected to look out for their own fortunes, within the confines of local and state law. However, that is precisely why government intervention, in the form of social policy, is necessary within the capabilities approach, and is kind of the entire point of the approach in the first place. Lastly, the capabilities approach seeks to remove exploitation under capitalism, that cannot be seen as failing to take it into account. As detailed in section 1.2, we already live under a rights-based system, so we require a different system to assess our rights with.

I should clarify here that I do not believe that all limitations on our capability to achieve our rights are put in place on purpose. Indeed, we humans have developed extremely complex societies, making it difficult to change anything without affecting some other part of society in some way. As a philosopher interested in egalitarian principals and theories, I am focusing on freedom of employment from the point of view that some common management practices and lack of adequate government intervention may be limiting our right to freedom of employment in some cases. It is likely however, that from the point of view of an economist, business owner, or banker (for just a few examples), my complaints and suggestions would constitute an undesirable way of thinking. This does not make the economist, business owner, or banker evil or wrong. They are simply working toward a different goal, with a different set of principles to mine. Whether or not, as a society we should be valuing the excessive accumulation of wealth by some, over the wellbeing or capabilities of the majority is addressed in chapter two. Either way, these people are simply working toward the goals that society advocates as important to being a good citizen, and it is my belief that most do not even realise the effects their decisions are having on the capabilities of others, on their ability to achieve their rights in a meaningful way. It is my purpose in this chapter to suggest a simple, easy to understand method of identifying what it is one wishes to achieve, and whether the systems we are creating in order to achieve said function are empowering everyone who wishes to achieve it – giving them, the capabilities to do so.

## 1.6. The Ingredients for Freedom of Employment.

In order to fulfil the function *freedom of employment*, the capability to achieve certain other functionings must also be available. As stated above, societies have developed into extremely complex systems, for this reason we need to be able to break down the functionings required into smaller, more manageable groups. Each of these other functionings may be understood to be functionings in their own right and may at other times hold more or less importance to the individual's situation. However, in the context of assessing our capability to fulfil our freedom of employment, these functionings combine to make a group of what we will call here *sub-functionings*. From these sub-functionings there are also what we will call *functioning constituents*. These functioning constituents include all of the possible ways in which one may achieve the desired sub-functioning. In order to have the unhindered capability to achieve our main goal of the functioning, one must have the capabilities required to achieve **all** of the sub-functionings and at least a sufficient number of the functioning constituents to enable the achievement of the sub-functionings. Due to the individual nature of humanity previously noted, the capabilities required by different people may also differ, even when they may share the same goal. Most employment types in New Zealand can fall into one of two categories, those that do not require qualifications and those that do. We can loosely name these categories as blue-collar and white-collar jobs, respectively. The qualifications required to obtain white collar employment are expensive, disruptive to current employment (if not taken straight from high school) and come with no guarantee of employment. If we turn to an example of this, we may begin to better understand the way in which our capabilities affect our freedom of employment.

I present James. James is a straight-A student from a lower socioeconomic neighbourhood, whose desired employment falls into the white-collar category. He will have no problem gaining entrance to university in regard to his intellect, though is unable to afford the tuition fees and associated costs of study due to the social position of his family and thus, is unable to exercise his right of freedom of employment to his full potential, without some intervention.

I should point out, that James finds himself in this position through the simple misfortune of birth and through no fault of his own, he is still a student and not yet responsible for his own financial position. Our goal for James now is to see him realise his right to freedom of employment, by enabling him to work toward the employment he desires. We do not need to guarantee the ability for James to achieve his desire, but we do need to ensure that we have left all practical avenues to tertiary education unhindered, unless doing so would impinge on the negative rights of others. This is an important distinction and does not discount any obstacle created through James' own fault or aptitude. To clarify, if James was to spend his time partying and failed to study for his exams, then the state would not be obliged to ensure James received a degree. However, if obtaining white-collar employment is contingent on one's wealth rather than their ability, then we are allocating certain types of employment to a certain *class* of people. This equates to good jobs for the wealthy and the rest can work making the things the wealthy spend their money on and clean up the mess afterwards. We can now compare James with another individual, Jane.

Jane is the same age as James, except she comes from a wealthy family. She works hard but has some learning difficulties that she is determined to overcome. Jane also dreams of white-collar employment and though she has her struggles, she has proven in the past that she can get the grades she requires with a little extra tuition. For Jane, the main requirement for success is the

availability of private tuition as money will not be a problem due to her family's wealth. Jane's case is simple, so long as there are private tutors available in New Zealand, which there are, then she is given all the support she requires. Jane is a lucky case, unfortunately there will be times where extra tuition will not be enough to get some people through. We are reluctantly forced to accept this for practical reasons. For example, we cannot allow just anyone to become a doctor, as the safety of others is at stake and just as with the contract killer example, one should not be free to take on any type of employment if they lack the mental or physical faculties required to do so safely. Once again, it is about the state ensuring that they are not unnecessarily hindering citizens own capabilities to achieve their desired employment, through either direct or consequential actions. The state may also act to provide assistance for those who have a right to such help through the right being determined to be as such by the state, and therefore popular consensus (for democratic states). In the case of Jane, a hindrance may be created in the form of the state outlawing all supplementary education outside of prescribed course work and times, rendering her incapable of overcoming her minor learning difficulties. Granted, this is not likely to happen, however it would be one way that unnecessary state interference may hinder citizens right to freedom of employment by leaving an entire potentially capable demographic from realising their potential.

In both cases the function that we are concerned with is obtaining white-collar employment. However, because James and Jane are individuals, they are coming from different starting points and although they both require some kind of assistance, the type of assistance required is completely different. These different types of assistance are due to different obstacles that each experience. We can fit these into the sub-functionings category. Namely, the sub-function of maintaining adequate income, or rather access to the necessities of life for James, and the sub-function of maintaining access to adequate education for Jane. Notice here that if Jane also had no access to maintaining adequate access to the necessities of life, or if James also lacked adequate access to education, then even from their prospective positions, their path toward qualification for white-collar employment would still be hindered without some other form of assistance. Items in the category of sub-functionings are things that must be achieved by all who will go on to achieve their desired functioning. It is easier here to list two people who have obstacles that I have chosen, but in order to assess our freedom of employment on a national scale we must develop a stronger understanding of what sub-functions are required by anyone who should go on to achieve their right to freedom of employment in any meaningful way. For citizens to meaningfully engage with their freedom of employment there must be no unnecessary barriers to doing so. The best way to achieve this within a complex system which may itself create some barriers is to leave open as many avenues to success as possible, allowing for multiple paths that may lead to the same destination. This represents the real world, where people have different wants, needs and abilities. Remembering that all who legally reside in New Zealand have freedom of employment as a right, therefore we should be aiming to allow for a diverse range of functioning constituents for each sub-functioning. I propose that there are three sub-functionings for the functioning of freedom of employment.

- Receive adequate government intervention: Government have been given the responsibility to safeguard the rights and obligations of their citizens. While employers (for the most part) and educational facilities are either private enterprise or government enterprise run within the rules of capitalism, a democratic government is the voice of the people, and therefore helps to balance out corporate and social power. This can be achieved (in our case) through regulation of private industry, providing assistance to citizens, or both.

- Finding *meaningful employment*: I will go into more detail on the nature of what I mean by meaningful employment in chapter two. For now, it will suffice to say that it is employment of the type that will bring about positive change to one's life and current needs or desires. This employment must be available in order for one to obtain it.
- Achieve education and training: Different types of employment require different knowledge and skills. If one is to be free to seek such employment as they desire, they must also be able to obtain the education and training required to do so.

There are aspects to government intervention that might make it seem that it should fit under the next category we will discuss, functioning constituents. For example, the student loan system that James may take advantage of. This may at first appear to fit below the function of access to education and training as a functioning constituent. However, this is taken from the view that the student loan is allowing access to education, which in part it is, but James could already work part time and pay for university if he did not eat or pay rent. What the student loan is doing is providing James with a way to both survive and attend university, on his path to securing his desired employment. Though it may be noted, that in this way government intervention may be seen as more of an enabling feature, rather than a sub-functioning. Since government is both integral to and separate from both employment and education (or rather should be), and because policy decisions may affect both other sub-functionings as well as the individual in different ways, it is my belief that government intervention sits on the same level as finding meaningfully different employment and achieving education and training. Sen (1993, p. 33) argued that "The freedom to lead different types of life is reflected in the person's capability set. The capability of a person depends on a variety of factors, including personal characteristics and social arrangements.". We should understand *social arrangements* to include government policy, since government holds the most influence over the majority of social arrangements. Therefore, Sen also must attribute enough importance to government intervention that he is obliged to make note of it alongside personal characteristics, which is discussed here as *human individuality*. This position is supported by others such as Salais (2003, p. 325) who contends that government policy is what underpins most social arrangements and therefore must be taken into account with the capabilities approach, and Orton (2011, p. 355-356), who also gives much weight to government intervention during his assessment of employability in the United Kingdom using the capabilities approach.

This leads us on to functioning constituents and what role they play within this system. Functioning constituents are necessary components to achieving the sub-functionings but are not sufficient, individually, to do so. The difference between the sub-functioning and functioning constituents is in the quantity required for them to be sufficient to service their requirements. Where we are required to achieve all of the sub-functionings if they are to be sufficient to achieving the function, we are only required to achieve an individual subset of functioning constituents. It is the individual quality of the functioning constituents that determines which ones and how many an individual may require to achieve their desired sub-functioning. By individual quality I am referring to how much affect the functioning constituent may have on the individual's unique situation. Each sub-functioning should have a larger list of functioning constituents, from which an agreeable combination of some, not necessarily all, must be realisable by anyone who will go on to achieve the sub-functioning. As a society, we should be aiming to make as many, if not all, possible functioning constituents available, even if they are not required by most individuals.

If we think of this for James and Jane, we will assume that there are adequate white-collar employment opportunities available, so we can ignore that for now. Our next sub-functioning is ‘education and training’, we can begin by examining as many things as we can think of which one may require in order to receive adequate education and training, these are the functioning constituents that I see as required for the achievement of the sub-functioning and include the likes of:

- Access to training facilities as required.
- The cost of education.
- Favourable conditions of entry.
- Academic assistance if required.
- Accessibility for those with disabilities.
- Adequate access to internet.
- Etc.

Because we are now dealing with a number of functioning constituents, on top of the sub-functionings that we are already dealing with, we require a way to keep ourselves organised, preferably a way that will allow us to identify clear pathways and obstructions to the attainment of our desired function. I propose here the use of a hierarchal chart as shown as figure 2 below. We can now fit these functioning constituents into the hierarchal chart to gain a better idea of how the system works.

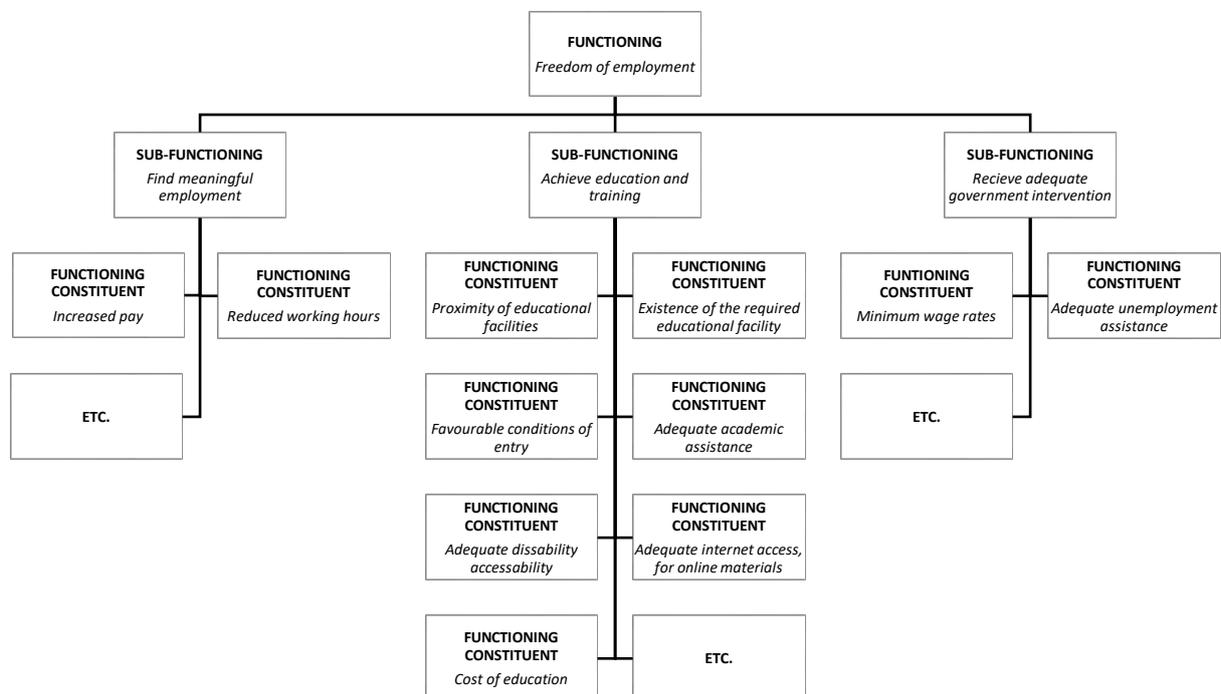


Figure 2 (original, 2021)

I will note here that I am neither attempting to create, nor intending to imply that the sub-functionings or functioning constituents that I describe here or discuss in detail within subsequent chapters are a complete list of the sub-functioning's or functioning constituents that are required to achieve the capabilities for freedom of employment, only a sub-set of those of which I deem to be of the most relevance within the New Zealand context.

Above, I have filled in the hierarchal chart for the sub-functioning of 'education and training' only. In order to determine if Jane, for example, is capable of achieving the function of receiving the education required to fulfil her employment desires she simply needs to work her way through the hierarchal chart. The hierarchal chart can be read from the bottom up, firstly determining if each functioning constituent is relevant for Jane. We will assume the following functioning constituents are not relevant for Jane, as we have no information to the contrary. This includes existence and proximity of educational facilities, adequate internet access or access to equivalent hard copy material, and the cost of education. This leaves Jane with three question marks, adequate disability accessibility, adequate academic assistance, and favourable conditions of entry. Jane must now determine if these functioning constituents are achievable for her. In the case of adequate disability accessibility, Jane suffers from a learning disability. As detailed earlier, Jane knows that she is able to overcome her disability with the help of private tuition. In New Zealand, Jane should have no problems finding a tutor, and most universities have systems in place such as notice boards to help facilitate this. Since the particular disability that Jane is inflicted with requires the use of academic assistance, and we have already deemed this to be available to Jane, we may assign an achievable status to both respective functioning constituents. This only leaves Jane to contend with favourable conditions of entry. By favourable conditions of entry, I intend to say conditions which are restrictive only in so far as necessary for the safe and competent fulfilment of duties, as discussed earlier. It is beyond my reach here to do a full audit of the entry requirements to entering every tertiary training facility in New Zealand, so we will assume here that the conditions are not in any way restrictive for Jane's chosen employment beyond that required for the nature of the work it is intended to train one for. Jane can now confidently conclude that she has adequate access to achieve all of the relevant functioning constituents in her individual set of requirements, in order to achieve the sub-functioning of obtaining education and training. In this same way Jane would be required to assess the other sub-functionings of adequate government intervention, and find meaningful employment, which we will do in a later chapter. For now, I simply wish to show how I intend to use my adaptation of the capabilities approach in conjunction with my hierarchal chart.

This chart shows that in order to be capable of achieving our right to freedom of employment we require: the capability to achieve meaningfully different employment, the capability to receive education as required, and the capability to receive some forms of government intervention as a society. This intervention is required to regulate markets and potentially catch us if we fall, to enable us to be capable of supporting our necessities of life during the different stages required to enjoy meaningful access to our right to freedom of employment. Each of these sub-functioning's have their own functioning constituents that we must have the capability to achieve at least some of, in order to be able to achieve the sub-function. This gives us a nice simple outline of where we may wish to begin our investigation and the above hierarchal chart format may be used again as we look more deeply into some of the sub-functioning's depicted.

## 1.7. Conclusion

New Zealand is a democratic capitalist society, this social structure comes with an inherent right to freedom of employment that is required for the structure to sustain itself. This is due to capitalism being a market society, balanced on the concept of supply and demand of commodities. Labour is a commonly sold commodity in New Zealand and is subject to the same *natural laws* of supply and demand as any other. In order for the value of the labour commodity to rise and fall naturally in line with other aspects of society, people need to be free to take on and give up employment as they see fit for the benefit of their own lives and wellbeing. Hence, freedom of employment. This makes freedom of employment one of the most fundamental rights any citizen of a capitalist society must have access to in order for such a society to function as intended.

We can prove that we have the right to freedom of employment and the purpose of this right, quite easily. However, due to the extremely complex nature of our modern society it is not quite as clear cut to tell if everyone is empowered with the capabilities required to achieve their right to freedom of employment in a meaningful way. For this we require a structural framework that will allow us to keep track of the numerous sub-functionings and functioning constituents required, to adequately assess our capabilities to achieve them. The capabilities approach, coupled with a hierarchal chart layout will allow us to identify as many areas of interest as possible. In this way we should be able to clearly identify unobstructed avenues through the tree, to our eventual goal (or function) of freedom of employment. We may also clearly identify at what level any obstructions may be occurring, and to easily see what capabilities one may require in order to remove or bypass those obstructions. In the following three chapters I will use this framework to closely examine the three sub-functionings of my hierarchal chart above: finding meaningfully different employment, receiving education and training, and receiving government intervention. In relation to these areas, we will be looking to identify what sub-functioning's each one requires, what functioning constituents will be required to facilitate them and if or how they may be obstructed from realisation for some people. It is my hope that in this way we may form a clear view of the capability of all who call New Zealand home, to achieve their right to freedom of employment. At the same time forming an assessment of our current systems efficiency at allowing freedom of employment to adequately perform its regulatory role in our capitalist society.

## Chapter Two

### Identify freedom of employment

#### 2.0. Introduction

For the majority of one's life, employment will take up roughly a third of most 24-hour periods and around half of our waking hours. For most, there are portions of time either side of our scheduled employment dedicated to traveling to and from work as well. While at work employers have a degree of control over their employees and, in some cases, may maintain aspects of control over the lives of their employees outside of their contracted hours. This control is maintained by virtue of controlling their employee's income, available time, recreational habits, social media activity, etc. With employment demanding such a large influence over the lives of employees, it should be important for this influence to be a positive one, employment must play a large role in people's ability to live happy, meaningful lives. Inability to access employment of this type would constitute a lack of the capability of freedom of employment because employment needs to be meaningful to bring value to an individual's life. For this reason, the ability to access meaningful employment is given the status of sub-functioning in my adaptation of the capabilities approach from Amartya Sen as previously discussed in chapter one. Given the subjective nature of what an individual may find meaningful, I will first define what I mean by meaningful employment. I will then begin to look at some of the functioning constituents that may be required by those seeking meaningful employment. My aim is not to end up with an exhaustive list of what is required by all potential employees, but to break down some of the more salient meaning-affecting aspects of employment and explore a way of thinking that may allow individuals to determine for themselves what is going to be meaningful for them.

#### 2.1. Defining Meaningful Employment

Due to human individuality, we may each think of something different when we consider what types of employment, we would find meaningful. This is captured by Steger, Dik, & Duffy's (2012), "Measuring meaningful work: The Work and Meaning Inventory (WAMI)" in which they have identified three points of interest that must be included in future research on meaningful work. The first of their points refers to personal meaning in work and situates such meaning as a subjective experience, with the individual employee as the subject. The view that it is important for the individual to have the final say on what is meaningful to themselves has been carried through from the psychology research of Hackman & Oldham (1976) and still holds true for today. It would be nonsensical to consider any employment to be subjectively meaningful, if not deemed to be so by the employee themselves. The second necessary point determined by Steger and colleagues is meaning making through work. This refers to overall life meaning obtained as the result of one's work having meaning to them. This should be obvious, any additional meaning in one's life, including at work, must also add to the total overall meaning in the life of that individual. I do worry that this may have implications in the reverse, if an individual may gain additional meaning in their overall lives by having meaningful employment, then it must also be possible to limit a portion of meaning from one's life by limiting access to meaningful employment, or by providing meaningless employment. The third point of interest is greater good motivations. People who report having

employment that allows them to contribute to the good of others or society more often also consider themselves as having meaningful employment (e.g., Grant, 2007., Steger & Dik, 2010).

These three points distinguish the ways in which meaningful work may be subjective for the individual. In addition to their second point, meaning making through work, we may each have different conditions of employment which would bring more meaning into our lives, or potentially strip meaning away. This makes meaningful work not only psychologically subjective but also, locationally, economically, and physically subjective. We may group these as being contextually subjective. Contextual subjectivity makes some forms of employment a more pragmatic option for some individuals than the same employment would be for others, even if each of the individuals hold the employment type in a similar regard psychologically. For those within lower income brackets, it may be a higher wage that will make the most impact on their ability to live a meaningful life. For others it may be the freedom to work from home that would make the most difference. There may be some who feel strongly against having their actions outside of working hours regulated by their employer, such as what they may post on social media, or whether they may take part in recreational drug use on the weekends. There may even be times when one is happy with their current employment and the entailing conditions but, require employment in a different location for any number of personal reasons.

Meaningful employment does not necessarily need to directly benefit the employee themselves, in an obvious way, either. There are many people around the world who work low or no pay jobs, helping those with disabilities, the homeless, those living in underprivileged communities, etc. For these people, the type of work they do is what makes their employment meaningful for them and financial motivation, although often not entirely unimportant, does not hold the sole ability to make their work meaningful (Binder, 2016; Hamermesh, 2018; Hamilton, 2000). In fact, Milena Nikolova and Femke Cnossen found, through analysing three waves of the European Working Conditions Survey, that autonomy, competence, and relatedness ranked roughly 4.6 times higher in regard to what employees found important for making meaningful work than financial compensation and benefits (Nikolova & Cnossen 2020).

This all paints a very complicated picture for meaningful employment. Because I cannot dictate the requirements for an individual's subjective experience of what it takes to have the capability of meaningful employment, my definition is a fairly open one:

*Meaningful employment is lawful employment of the type which provides sufficient meaning to the life of the employee. This meaning, and subsequent sufficiency should be defined as such by the employee themselves and should only be limited by any detrimental effects it may have on the negative rights of others.*

This is the definition of *meaningful employment* that will be used throughout the remainder of this thesis. It is important to clarify that this is not to say that we must ensure each individual's dream job, only that we must ensure that there are no unreasonable obstacles to accessing the opportunities to achieve employment of the type that will be meaningful for the individual. We can already see similar examples of this in our society, such as the requirement for all children who reside in New Zealand to receive a minimum education by attending school or being taught at home using a standard curriculum. This is intended to ensure that most people living in New Zealand have had the opportunity to achieve a sufficient level of education to be a functional member of society,

and should be able to gain, at least, basic employment. The lives of students are every bit as subjectively complicated as those of employees and the standard curriculum may not be suited to the needs of all, but at least an attempt has been made to capture as many students as possible. There will still be situations in which a child is unable to attend school and they also have no one competent to home school them. There may also be some who learn differently to how the curriculum is oriented, meaning that they do not have the capability to achieve the same learning outcome as others. These are the types of situations the capabilities approach is designed to highlight in these complex systems. Because one brain is not capable of processing the level of data required to assess all possible scenarios I have developed a hierarchical chart in the previous chapter, which simplifies the capabilities approach and provides a visual representation of the functioning constituents required. Now that we have an open definition of what it takes for the individual to have the capability of meaningful employment, the remainder of this chapter is dedicated to observing which employment conditions are suitable for allowing most people to achieve this capability.

## 2.2. Sub-Functioning -- Meaningful employment

In chapter one, *find meaningful employment* was identified as a sub-functioning of having the capability to achieve the function of *freedom of employment*. The focus of this chapter is to determine if those who legally reside in New Zealand have the capability to find adequately meaningful employment opportunities without undue hindrance. This requires us to identify which functioning constituents may be applicable for finding meaningful employment, and if there are enough available to ensure that as many individuals as possible may be able to form their own sets of functioning constituents that would constitute an adequate package to enable the achievement of the sub-functioning. If we look at the sub-functioning as a shopping bag, two individuals may fill their shopping bag until they are satisfied with their purchases, however both individuals may require different items in order to satisfy their needs. In this way we may consider the items in each bag as the functioning constituents required for the shopper to achieve the sub-function of having a satisfactory shopping experience. In Figure 3 below, I have listed such things that I deem necessarily require consideration, to adequately satisfy my capability to achieve the sub-functioning of meaningful employment. Others may share some of the same functioning constituents, however, it is likely that some may vary between individuals.

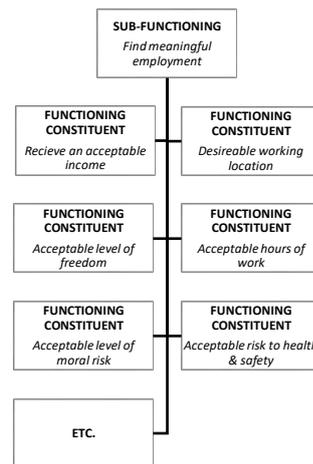


Figure 3 (Original).

If we consider the example of income in this way, we can conceive that, for some, a higher income would be meaningful to their overall lives. For others, maintaining the status quo or even a reduction in income is acceptable, so long as other conditions that are meaningful to them are met. Even if someone wishes for a higher income, the other conditions may be so good that they are willing to settle for a continuation of what they have been receiving. Below is an example of how we must determine our phrasing for items within the functioning constituent categories.

The use of money as the primary method of resource distribution cannot be separated from capitalist societies, “[I]f capitalism is to exist, there must be an ultimate or basic asset with the requisite degree of “moneyness.”” Lau, & Smithin (2002, p. 18). For those who live within such a state (as we do), money is required to secure a home, food, clothing, healthcare, transport, etc. In short, everything someone may need or desire to maintain their life requires either money, or a valued commodity which may be traded for money. One such commodity which may be purchased using money is labour, and the sale of their skills and labour is the way that the vast majority of citizens of capitalist societies gain an income, such that they may trade it for the aforementioned necessities of life. In order for employees to live a meaningful life, the cost of labour must be set at such a price that those who sell it receive, at a minimum, adequate income to support the costs associated with living within their given society. If employees are to have meaningful lives, covering their costs of living must be achievable with enough time left over to do things other than work and sleep. We can see here that the concept of money is deeply engrained into capitalist society. Without some form of currency, capitalist society would necessarily cease to be capitalist. Given this important role that money holds within capitalist societies, there must be a role for income within the functioning constituent category.

However, as discussed above, it is not the case that one must necessarily receive more income; that is only required by some, not all. This tells us that we must phrase the functioning constituent relating to income in such a way as to encapsulate all possible acceptable outcomes, increase, status quo, or decrease to income. We can do this by allowing the individual to decide how much meaning the income component will bring to their own lives. When we do this, we end up with something such as, *receive an acceptable income*. This allows for all possible scenarios, while maintaining the individual’s ability to judge what is acceptable for themselves. With this being said, there are minimum financial requirements one must meet in order to have the ability to live a

meaningful life within a capitalist society. If employees are unable to afford the cost of living, it can hardly be said that their employment is capable of bringing meaning to their lives. This is an important aspect that I will return to.

Other functioning constituents we will look at more deeply include:

- Obtain desirable working location and hours.
- Personal freedom.
- Risk to health and safety.
- Risk to moral wellbeing.

As discussed above, there will be other functioning constituents that may be relevant for different individuals. These may include things such as, ability to observe certain religious practices during work hours, the language spoken during employment, personal requirements around allergies or phobias, etc. It is important to remember that the relevant functioning constituents for each individual must be defined as such by the individual. I am only presenting a representation of those that I feel to be of the most importance.

### 2.3. Functioning Constituent -- Acceptable Income.

Personal wealth plays a major role in capitalist societies. For many, this personal wealth is built through paid employment. According to the Statz NZ Business Demography data (2018), around 2,238,000 people are employed in New Zealand. Due to the aforementioned propensity for human individuality, personal wealth is also highly individual. Some people may have what would generally be considered to be a large personal wealth yet find any loss of income to be unacceptable. Others may have no personal wealth, but do not find it to be so important to build as say, good relationships within the workplace or having an interesting job (Clark, 2005). These are what may be regarded as the extremes, bookmarking all the possible variations in between. With our sub-function requiring one's income level to be acceptable, as deemed so by the individual, we must ensure the availability of a wide variety of income levels within different fields of employment. In order for this to have any effect, it would be beneficial to attempt to provide as much openness and clarity around what income level one can expect from their prospective employment and also requires an adequate minimum rate that one should expect as compensation for the hours of their lives being sold.

“[T]he function of the State is to secure conditions upon which its citizens are able to win by their own efforts all that is necessary to a full civic efficiency. It is not for the State to feed, house, or clothe them. It is for the State to take care that the economic conditions are such that the normal man who is not defective in mind or body or will, can by useful labour feed, house, and clothe himself and his family. The "right to work" and the right to a "living wage" are just as valid as the rights of person or property” (Hobhouse 1964, p83-84).

These words from Hobhouse, were originally written in 1911 during a major move away from the liberalism endorsed by those such as J. S Mill, and toward what is known as new liberalism (Waltman, J. L. 2007. p. 2). The shift into new liberal thought brought with it an interest in minimum

wages as a way to combat poverty, the inability to feed, house, and clothe oneself or their family. In this way, the minimum wage is designed to clarify the base income level required to service the requirements for an acceptable level of wellbeing. Hobhouse calls this a living wage, but we have a minimum wage which is lower than the living wage in New Zealand. If we first look at the minimum wage, being the lowest lawful rate that an employee over 16 years of age may be paid, we find two tiers. On the first tier, reserved for apprentices and those aged between 16-18, we have \$16.00 per hour. The majority of employees fit into the second tier of \$20.00 per hour, which encompasses anyone eighteen years or older, who is not currently training (employment.govt.nz, 2021).

The other measure of a minimum acceptable income for New Zealand employees is the living wage. The New Zealand living wage for 2021/2022, which is set to come into effect on 1<sup>st</sup> September 2021 has been calculated at \$22.75 per hour (LWANZ, 2021). However, the living wage is adhered to voluntarily, and there is no law requiring it to be paid.

"The Living Wage concept is very simple, yet such a powerful alternative – it's the hourly wage a worker needs to pay for the necessities of life and participate as an active citizen in the community. It reflects the basic expenses of workers and their families such as food, transportation, housing and childcare, and is calculated independently each year by the New Zealand Family Centre Social Policy Unit." – (Living Wage Aotearoa New Zealand, 2021).

As stated in the above quote from Living Wage Aotearoa New Zealand, this rate reflects only basic expenses, and as such, does not assume to grow individual wealth. Based on their assessment, the current minimum wage is \$2.75 per hour short of enabling individuals the capability to maintain a life that is not meaningless or bad, and certainly does not sound as extensive as what Hobhouse had in mind. Without the ability to grow any personal wealth, even those earning the living wage have little chance to gain any overall life meaning through financial security and may require more than this if financial security is not something they have independently but is something they require from their employment.

According to the New Zealand Ministry of Business, Innovation and Employment, there is an estimated 175,500 employees that earn minimum wage as of 2021 (mbie.govt.nz, 2021). That is 175,500 employees that are working, but will still find themselves around \$100 per week, short of covering their basic expenses, even should they work a 40-hour week.

As shown in figure 4 below, the two lines representing those who earn between \$40,000 - \$50,000 per year make up a little over 300,000 employees. We can assume, based on the 175,500 minimum wage employees and the rate that they receive, that many of these individuals are in full time employment, but are still either unable to, or barely affording the minimum requirements to live a meaningful life, without any other forms of income.

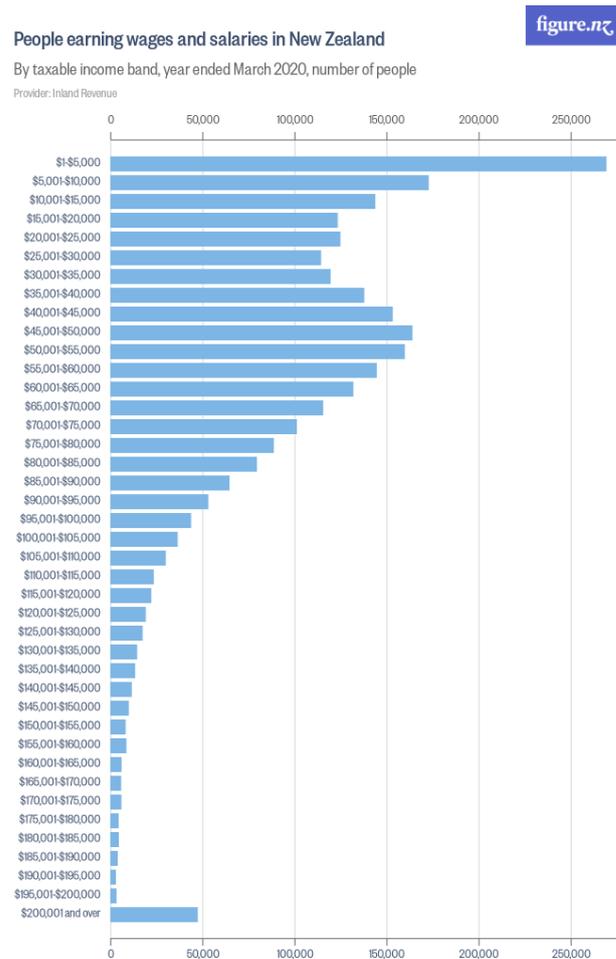


Figure 4 (figure NZ 2020, CC BY 4.0).

To translate this into what is felt by employees, earning less than what is required to sustain one's life is akin to if your employer were to tell you that the hours of your life spent in the pursuit of making a profit for them and their company are not even worth the cost of keeping yourself alive in any meaningful way. This may not bother those with personal wealth or income from other sources, but for those who require their costs of living to be covered by their employment, being told week by week, through every pay cheque, that your time and skills are not even worth the cost of living is demeaning to the individual. For such people, any employment that falls into this pay scale cannot be counted as meaningful employment, by simple definition. Since many people earning at or close to minimum wage are probably not financially independent, this means that approximately 300,000 jobs do not have the ability to be meaningful to the employees doing them.

We now have our first consideration for the functioning constituent of *acceptable income*, to adequately service the cost of living a meaningful life.

I have only looked at the ability for one's employment to cover the basic level of economic freedom that will allow the individual to contemplate more than simply keeping themselves alive. Some other areas of interest one may consider here are less broad and may affect less people, but

depending on the requirements of the individual may also play a role in deciding the adequacy of a proposed income, including but not limited to:

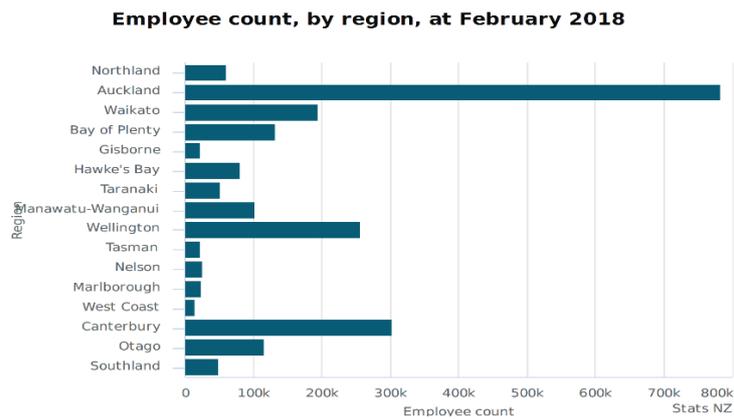
- Transparency of attainable income levels within given work bands, i.e., Labourer, blue collar, white collar, etc.
- Opportunities for future income advancement.
- Equitable income with others who bring similar value to the workplace.
- Income security. Risk of losing one's employment often also means risk of losing one's income.
- Frequency of income payments.
- Etc.

#### 2.4. Functioning Constituent – Desirable working location and hours.

We can only be in one place at a time, meaning any hours taken for one daily activity are necessarily taken away from another. For some activities there is no way to avoid this, other than by removing the activity from being a daily one completely. In this regard, we must treat hours worked and the time taken to get to and from work as one. To see this more clearly, we may look at an example.

John works a standard 40 hours per week across five days and lives ten minutes from his place of employment. This gives us a total of 41.6 hours per week that John spends engaged in work. Contrast John with Alice, who also works the same 40 hours as John, only Alice lives one hour away from her place of employment. This leaves Alice's total at 50 hours per week spent in her work engagement. Since both employment and the time devoted to travelling between work and home are, for the most part inseparable, it is apparent that Alice necessarily has 8.4 hours less time available per week to her for enjoying recreational activities than John does, due to work related activity.

Alice may choose to work an hour away from her home for many reasons, she may be really happy with her workplace, but wishes to live in another location due to personal housing requirements. She may also have found employment that fulfils the majority of her desires but does not wish to leave her home and is happy to commute. So long as the reasons for Alice to live so far away from her employment are entirely her own this is acceptable. However, we must be careful to ensure that this loss of available time has been made without coercion. Types of coercion may include things such as, Alice having an inability to afford to live in the same location as her workplace due to the cost of living there or, due to finding a lack of employment opportunities within the region that she already resides. I must concede that this is not something that we as a nation may get perfect, and there will always be those who come from a small farming town but wish to be a surgeon, for example. These people will likely have to move in order to achieve both their education, and subsequent employment. This should be acceptable because it falls into the category of changing location by choice. However, by monitoring regional population growth and encouraging business opportunities in areas that have been identified as being on the rise, we may go a long way toward mitigating the need for people to make a long daily commute in the pursuit of obtaining an income. Figure 5 below, shows the number of employees within regions that have seen a notable increase in the number of people in employment between 2017-2018.



*Figure 5 Stats NZ (2018) and licenced by Stats NZ for reuse under the Creative Commons Attribution 4.0 International licence.*

During the 2017-2018 period, increases to the number of employees within the Auckland region accounted for 34% of the national increase, which equated to 23,900 new jobs, on top of the 800,000 that already existed there (Stats NZ, 2018). With this large percentage of new employment coming from one place, it is hard to ascertain whether the job creation was due to demand in the area, or if the opportunities are disproportionately being created in Auckland, effectively coercing people to leave their homes, or commute for employment. The New Zealand census data (2018) shows that in the five years between 2013-2018 the population of the Auckland region increased by roughly 11%, or 156,000 people. This equates to an average of 31,200 new Auckland residents per year. For various reasons, not all of Auckland's new inhabitants will require employment, for example, children, elderly, etc. As such, employment opportunities to match over two thirds of the new residents would likely be adequate to service the requirements for the region.

If we believe that freedom of employment should enable the lives of employees to be meaningful, then it is important that employees must be able to work in a location that they are comfortable to be in and that suits the type of life that they wish to live. Again, we must watch our phrasing when determining the functioning constituent of having desirable working location and hours. We must be careful to preserve the individuality of employees and the different upbringing and backgrounds that each may have. If we are to look at the case of Alice again, we may easily add some small changes to her background which would change the dynamics of her decision to work an hour away from home.

Case one: Alice is uncomfortable being around busy crowds and prefers to live in a smaller, quiet town. The problem is, she is unable to find work close to home due to an imbalance of employment opportunities, which are weighted toward the city. Alice is now forced to decide between unemployment, underemployment, moving to a place she does not want to be, or incurring the additional emotional burden, cost and loss of time associated with commuting to work.

Case two: Alice loves her job in the city but enjoys spending her time away from work out in the country. Alice also loves gardening and would like to have a few animals if possible, so she decides to move to a lifestyle block about an hour from town. She is not bothered by the loss of time

created by the need to commute. Alice also drives a company vehicle, enabling her to avoid the financial cost generally associated with commuting.

Case three: Alice both lives and works in the city. Alice loves her work, and she gains a great sense of fulfilment from it and wishes to remain there until she retires. However, due to high demand for housing in the city, possibly encouraged by an abundance of employment opportunities, the cost of living is rising faster than her income and is becoming unsustainable. Alice does some research and discovers that she can save a considerable amount of money if she accepts a commute to work each day, effectively giving herself a form of pay-rise. This will enable her to continue with her current employment, while also maintaining her living costs.

These are only three examples out of many possibilities, but they show us how individuality of both background and personality can affect decision-making around the same situation of having to commute an hour for work. In case one, it is hard to see how Alice is left with any real options to find employment that will be meaningful for her. In fact, it appears that no matter what Alice was to choose, she will only be deciding between which level of reduction of meaning she is willing to accept to gain employment. The Alice in case one does not have access to any employment type that fulfils the functioning constituent of desirable work hours and location which she requires in her set. If she is unable to find employment that fulfils adequate alternate functioning constituents to overcome this loss, then Alice may find that she does not have the capability of accessing the sub-function of obtaining meaningful employment. Case two shows Alice as being in control of her own life in ways that contribute to her overall happiness and wellbeing. It should be safe to assume that the conditions around Alice's employment are not hindering her ability to live the life that she feels is meaningful in any way. As someone who already has the freedom to both work and live where she wishes, this Alice must be said to have access to the functioning constituent of desirable working hours and location. At first glance, case three shows an Alice that appears to have choices. With the set she has been given, it could also be said that Alice has taken the prudent option and allowed herself the freedom to enjoy fulfilling work and ensure that her income can service her cost of living. We should however question whether this is accurate. It seems to me that there is the possibility that Alice is simply a victim of not receiving an acceptable income if her employment is unable to support the costs of living associated with the region where the employer is located. However, this case could really go either way. It may also be the case that Alice receives a more than adequate income but has unrealistically lavish expectations for her standard of living. The former is something the state should wish to avoid, and the latter is out of state hands and brought on by the unrealistic desires of Alice herself. We must be careful not to require the state to be responsible for the unrealistic desires of individuals. What may be deemed as realistic/unrealistic expectations for standard of living may be hard to determine in any definitive way. However, it should be fair to say that for those whose work is historically minimum wage, aspiring to earn double the living wage for working 20 hours per week, would likely be an unrealistic expectation without upskilling and changing employment.

I have focused here on the hours of work an individual is required to do to service their cost of living, how much time they require to travel to work and back, and how much free time they are left with. I see these as the primary considerations concerning adequate access to desirable working location and hours, since the ability to service one's cost of living is an important part of

employment for many. There are other aspects of this functioning constituent that may also be considered, and may be more or less important to individual people:

- Proximity of employment from home.
- Characteristics of the work site, i.e., Fixed, varying, inside, outside, clean/dirty, etc.
- Financial viability of getting to work.
- Willingness/ability to move or commute, i.e., Ownership of a vehicle, availability of public transport, etc.
- Available time to commute, i.e., other obligations, hobbies, house tasks, etc.
- Number of days or hours worked each day.
- Etc.

## 2.5. Functioning Constituent – Personal Freedom

Democratic states are designed to give those who reside within, the freedom to decide for themselves who will lead them, and what type of leadership they want. As detailed in chapter one, capitalism was also conceptualised as a way to create a nation of free people. In this regard, democratic states that use capitalism as the preferred means of distribution, are all about freedom. It should come as no surprise that those who live in such states value the freedoms that they have and are not largely forthcoming when it comes to giving any of them up. One area of our lives where we are routinely required to give up some of our rights though, is in the realm of employment. Employers are not democratic institutions, they are dictatorships, where employees are required to comply with any lawful request by their employer in exchange for an income (Anderson, 2017). The requirement for employees to comply with this system is simple, we already established that 40-hours per week at minimum wage is insufficient to support the true cost of living in New Zealand by about 11%, most who are earning above that would not wish to risk losing their current employment for fear of finding employment with a lower income. According to Work and Income New Zealand (2021), as of 1<sup>st</sup> July 2021 the jobseeker benefit for a single person aged over 25 is \$278.50 per week, and \$481.30 for an unemployed family with children. Even at the family rate, this is only slightly more than half of the living wage required to sustain an individual person, which equates to \$910.00 per 40-hour week, before tax. The risk of unemployment is a very heavy burden on the working class, felt even more so by those with a family to support. That means one's decision to take on employment is also one's decision to hand over, to the employer, the power to pose considerable interference or reduction to one's rights. Failing to follow instructions at work may lead to an employer exercising such power as to make the employee unemployed. With such powerful motivators as an unsatisfactory minimum wage and benefit system on the side of the employer, even the simple decision to work is not an entirely free one and prospective employees may find themselves agreeing to conditions that they would not, if this power imbalance did not exist or if there was no financial coercion involved. This power imbalance may not be created by the employer, but they do enjoy the benefits of it.

The personal freedoms that may be lost by employees can be organised into two groups, those that only apply during working hours and those that continue to apply while one is not at work. Losses to personal freedom during work hours can include things like a requirement to wear a uniform, loss of phone use, control over when one may eat and take breaks, control over internet

usage, control of conversation content with other staff and customers, exploitation of non-relevant employee skills or knowledge etc. The above are all common losses of freedom that employees in New Zealand may face at work and does not include more severe losses felt by some such as, loss of autonomy around toilet breaks, or being required to perform tasks that constitute a loss of human dignity. While many of these losses to employee freedoms are required if one is to complete their employment tasks to an adequate standard, preserve the negative rights of fellow employees, or to present an appropriate image to the public and customers, this may not change the way in which those living under such constraints may feel about them. This is why it is also important to ensure that any loss to personal freedom, while at work, must be taken voluntarily and without coercion. Again, so long as the risk of seeking alternate meaningful employment or unemployment entails a substantial risk to personal wellbeing, employees may be more willing to give up their valued freedoms than they would otherwise be.

If we turn to forms of freedom which may be lost beyond an employee's paid hours of employment, we may see things such as restraints on where one may live, control over hair style, type and location of piercings and tattoos, recreational drug use, social media content and posts, ability to use one's spare time and skills to gain additional income, etc. Each of these losses transcend the hours of employment and are continual losses of freedom felt by the employee. Some of these losses, such as those that have to do with personal appearance may hold value in terms of presenting a particular image to the public and customers. Others seem entirely arbitrary when given enough thought, such as where an employee may live. An individual's home location should have no impact on an employer's decision whether or not to hire them. It should be up to the prospective employee to decide if they take issue with the amount of travel they may be required to undertake, and to complete their work within the times agreed upon. Currently, any loss of these freedoms requires the employee to decide whether they are willing to make the sacrifice, but in some cases, it may be that the employer should not rightfully hold the ability to remove such freedoms from their employees. This is particularly important for losses of freedom that transcend the boundaries of work and enter the personal lives of employees, that fail to achieve their stated justification.

The use of suspicion-less drug testing is one power that employers hold over their employees, which may not entirely live up to the justifications attributed to it. Suspicion-less drug testing is a good example to look at, because the concept deals with individual's right to privacy, employee's rights to a safe workplace, the employer's obligations and the employee's right to work. I would first like to clarify that I am in no way arguing for the acceptance of drug use into law or wishing to imply that the below subject has a right to use illegal drugs. My aim is simply to strip down and question whether it is the place of employers to police this by screening employees at random, even when they are without any reason to suspect the individual of any wrongdoing. The fact is this is a power even the police do not currently have in New Zealand, but employers do. The methods for drug testing are invasive and if our workers are being asked to willingly subject themselves to testing, then there must be a reasonable justification for the imposition of suspicion-less drug testing.

Alex works Monday to Friday at a timber mill. The mill is a dangerous place, with large machinery and heavy objects moving all the time. The owner of the mill takes the right for her employees to have a safe working environment very seriously and has put into place many measures

to ensure safe work practices by all staff. As a part of these measures, she has in place a mandatory acceptance of random drug testing by all staff. This worries Alex, as he enjoys smoking a small amount of cannabis on Friday nights after work. Alex knows that this is the only time he smokes and that it will in no way affect his work performance during the week. The only difference between Alex and his workmate Tom who drinks on Fridays, is that Tom's Friday night drinks cannot be tested for on Monday, whereas cannabis may produce a positive test result up to several weeks after consumption (Macdonald, Hall, Roman, Stockwell, Coghlan, & Nesvaag, 2010). For Alex, his personal situation would make giving up his job highly detrimental to his and his family's wellbeing, but he also does not understand why he must give up his Friday night cannabis use to protect this employment. Alex is also aware that he is breaking the law, however this should be of no concern to his employer since he is not breaking any laws while on work time or property, the only reasonable claim of justice that his employer might have in this case is workplace safety.

In this situation the owner of the timber mill is genuinely trying to protect her employees from dangerous work practices by their co-workers, but in the case of Alex her attempts are missing the mark and cannot truly be justified in the name of workplace safety. Drug testing involves either handing over a cup of one's urine, allowing blood to be taken from the body, or allowing a swab to be taken from inside the mouth. All of these options involve the employer having the right to remove bodily fluids from their employees under the threat of losing one's employment, and thus income, if one is to refuse. It is hard to justify why anyone who either does not partake in recreational drug use or only partakes at times where it will in no way impact their ability to safely perform their duties of employment, should ever be subjected to such an invasive abuse of privacy and ownership of their own bodily fluids by their employer. Anderson refers to this type of random drug testing as "suspicion-less drug testing" and argues that the invasive nature of such a procedure oversteps the boundaries of how much ownership rights an employer should have over their employee's, in the face of evidence that suggests that it is ineffectual at achieving the stated justification (Anderson, 2017). In an analysis of employee drug testing and workplace safety and incident data spanning 20 years, Macdonald and colleagues (2010) also conclude that suspicion-less drug testing by urine sample has little to no impact on workplace incident rates, and thus fails to achieve the stated justification for use. They recommend blood testing as a more accurate indicator to determine employee impairment. Though, due to blood testing being a much more invasive procedure, this may not be suited to pre-employment or random drug testing and may require a more targeted approach.

This is not to say that drug testing has no place within the workplace. There are times where an employee may display unsafe behaviour, an uncharacteristic reduction in work quality or output, or employees may display other typical signs associated with the use of drugs. At these times, the employer would be perfectly justified in requesting an employee to be drug tested, on the grounds that they have reason to suspect the employee of drug use, which may be affecting the safety of the workplace for themselves and others. There are also other areas of society where suspicion-less drug testing may be acceptable such as breath testing for drivers. The difference here is that driving is a privilege allowing it to command a tighter control over the rules which regulate it, whereas it is a basic human right to work in New Zealand. The right to work may be withheld if one is risking the rights of others to work in a safe environment, but there is no question of Alex or any of the staff who do not use drugs, posing any risk to others through working in a drug induced state. If there are no safety benefits to be gained, how is the employer's power over the bodies of their employees to

be justified in this case? This is to say, that to allow the employer arbitrary ownership of the bodily fluids of their employees in order to perform a procedure which fails to achieve the stated justification for doing so, is questionable and shows a lack of regard for the rights and privacy of such employees.

In order to have the widest range of employment opportunities available to as many individuals as possible, the options for freedoms lost to employers should be minimal. The state is the only entity with the ability to limit the powers that employers may hold over their employees. Therefore, it should be up to the state to regulate which losses constitute an acceptable and unavoidable loss of rights. Some small losses of freedom will likely always be unavoidable for most employees, and individuals must take into account which freedoms they are willing to sacrifice in order to obtain employment. However, there is a growing body of evidence suggesting that employees who report as having more psychological empowerment also perform their tasks more accurately and efficiently. Perhaps allowing employees more personal freedom at work may in fact benefit employers more than the removal of personal freedoms (Wilson, J. H., 2011; Bordin, Bartram, & Casimir, 2007; Greasley, Bryman, Dainty, Price, Soetanto, & King, 2008).

Individual people may have vastly different opinions about a wide range of freedoms that they wish to have available to them while at work. While for practical reasons, it may not be possible for everyone to have total freedom to decide the rules which govern their employment, individuals ought to take into account what freedoms they are willing to have restricted as part of their assessment of employment opportunities. The below considerations are a sample of rights people may enjoy as citizens, which may be restricted by an employer.

- Number and flexibility of working hours or days.
- Ability to make one's own decisions.
- Ability to work from home.
- Rigidity of break times.
- Flexibility of physical appearance.
- Flexibility in use of phone and internet.
- Retain ownership of one's non-relevant skills and knowledge.
- Ability to use relevant skills and knowledge outside of working hours.
- Ability to police one's own social media, to the individual's standard.
- Etc.

## 2.6 Functioning Constituent – Risk to Health and Safety

As touched on above, some types of employment come with a degree of danger involved. It is the employer's responsibility to ensure that their workplace is free from unnecessary dangers, and that all employees conform to safe working practices. Despite this, it is not possible to mitigate all risk to the safety of employees in all situations e.g., paper cuts for office staff or hammered thumbs for builders. Even if all safe working practices are adhered to, there is still always the risk that accidents may happen beyond the control of either the employer or the employee. Given that some types of work come with more of these types of unavoidable dangers than others, it is left up to employee to

decide the level of risk they are willing to accept when looking for potential employment. Someone who is uncomfortable with the risks associated with fire for example, are unlikely to accept the level of personal danger required to become a fire fighter. Likewise, those who are more concerned with transmissible infections are less likely to seek work in a hospital. In order to ensure that there are adequate employment opportunities for everyone, we must also ensure that there are employment types available which allow those seeking employment to avoid dangers that are unacceptable to them. This is not only about personal choice, but also includes individual abilities. Some people do not have the coordination required to safely operate heavy machinery, if they were to take on such a role it would put both themselves and others at risk of serious injury. Others may not be able to drive, therefore employment as a truck driver would not be suitable for them for safety reasons. When it comes to personal danger, it is vital that individuals are not under any coercion to undertake tasks that they themselves are not comfortable with. Again, we have a problem here with the fact that unemployment brings the very real danger of not being able to sustain one's basic cost of living, and unfortunately this is a risk that employees must currently consider when making employment decisions.

Take agriculture, forestry, and fishing, which together make up the primary industries in New Zealand, for example. According to careers.govt.nz statistics found on Stats NZ, as of 2021 employees with jobs in these industries can expect a median annual income of \$55,000 per year, or around \$150.00 per week more than a living wage. For those who are earning the living wage (\$47,320 per year), the extra income could make a substantial difference to their overall wellbeing and provide enough incentive to make one more likely to take on heavier risk. We can look at such risks by examining yearly accident claims and fatal injuries from within the industries. According to Stats NZ, the accepted ACC claims for work related injuries in 2018 showed the highest number of incidents within the primary industries, with 190 claims per 1000 full-time equivalent employees (Stats NZ, 2019). For comparison, the financial and insurance services industry had only 15 claims per 1000 full-time equivalent employees, with a median income of \$65,000 per year. The Worksafe fatalities summary table also shows that the primary industries saw a combined total of 20 fatal incidents the following year in 2019 (Worksafe NZ, 2021). Notwithstanding a few individual occupations, this makes the collective primary industries of agriculture, forestry, and fishing the most dangerous employment in New Zealand. If we believe that no one should be taking on unacceptable risk in pursuit of the basic costs of living, we must then ensure that unemployment or underemployment may remain a preferable option to taking on employment that is not suited to one's skills or abilities. Those willing to take on such risks should also be adequately compensated, \$150 per week towards eking out a meaningful existence hardly seems worth risking life and limb for, but that may depend on what other variables are at stake.

The existence of well paying, safer industries in New Zealand, such as the financial and insurance services industry, show us that there is scope for employees to seek out employment involving various levels of risk to personal health and safety. Though in the instance above the safer employment option is also the one expecting a higher median income, this is not the case for an example such as retail. In the same report detailed above, the retail industry logged a total of 73 accident claims per 1000 full-time equivalent employees. Retail employees are asked to take on considerably less risk than those in the primary industries, however still almost five times more than those working for financial and insurance services and do so for an expected median income of \$48,000 per year, only marginally higher than the living wage. To put this into perspective, the

primary industries employ approximately 133,000 staff, retail employs approximately 201,000 staff, and financial and insurance services employ approximately 70,000 staff. At only 15 claims per 1000 full-time equivalent employees, financial and insurance services share the award of safest industries for employment with the information media and telecommunications industries, and combined, they employ an approximate total of 109,000 staff. There are five more industry groups that have made a number of claims exceeding 100 per 1000 full-time equivalent employees. They are Manufacturing; Electricity, gas, water, and waste; construction; Transport, postal, and warehousing; and arts and recreation services. Together with the primary industries, these higher risk industries employ roughly 770,000 people. With a total employment pool of approximately 2.34 million employees in the same year, higher risk employment makes up a little over one third of the employment opportunities in New Zealand. Taking into account the prevalence of employment opportunities within these industries, and many of them having a median annual income of \$60,000 or below, it seems there would be plenty of incentive for those on a lower income to consider taking on some additional risk. What is not clear however, is that these employees are receiving adequate compensation for the risk they are willing to take on. With accounting, architecture, human resources, information technology, etc. all providing much safer options and come with median annual incomes of above \$60,000. As discussed earlier, the concept of supply and demand also applies to the sale of labour, for the income of those in dangerous employment to remain at lower levels, there must be a good supply of employees who are willing to take on such risk for the agreed wage. When one third of our employed population is willing to take on employment that injures up to 20% of participants, for less compensation than those with safer jobs, we should have reason to investigate.

I have concentrated here on the risks involved with industries as a whole. I have taken this approach due to the amount of available data, and the ability to outline areas of interest which may benefit from further investigation. Individual employment types within these industries will come with their own inherent risks, some with lower while others with higher. The considerations an individual must make also include their own skills, knowledge, and abilities, as well as their preferences and their own personal situation. These considerations should include things such as:

- level of risk to the individual.
- level of risk one may pose to others.
- Motivators, such as dream job or good pay.
- Individual skill level.
- Individual income requirements.
- Safety consciousness of the employer.
- Etc.

## 2.7. Functioning Constituent – Moral risk

Personal injury is not the only kind of risk that employees are subjected to at work. There are other aspects of risk that make up the last functioning constituent that we will explore for this chapter, namely, the risk to one's moral wellbeing. The risk to moral wellbeing comes as a result of the power imbalance between employers and those who they employ. When people interact as individuals, we each have the unrestricted right to refuse to complete any task that we do not deem to be morally acceptable. During employment however, there may be a risk that tasks required during the performance of one's job may breach the individual's moral boundaries. Similar to the above considerations around acceptable levels of personal danger, employees should not be required to perform any task that is contrary to their own moral standards, which would cause the employment to fall short of being meaningful. This may be mitigated, in part through employment regulation and social norms, though it is still largely up to the individual to decide upon employment of the type that is unlikely to result in breaches to their moral standards. Moral standards may come in various forms for individual people and individual employment types. For those who work in the food service industry they may involve the sale of food that either the employee or the law deems to be unsuitable for human consumption. Those working in the clothing industry may have personal moral standards around the sale of items produced by forced labour. Those working within the media may feel uncomfortable if asked to report something untrue or not entirely true, etc. For those who work in the transport industry, moral standards may involve the safety of their vehicles or loads. An example of this can be seen over recent years with the case of unsafe handbrakes on trucks. According to Radio New Zealand, there has been warnings issued to truck owners in regard to unsafe truck handbrake systems in 2017, and again in 2019. The braking system in question is responsible for at least eight incidents since 2013, with some being fatal. There has subsequently been a ban on these handbrakes issued in March 2021, however there are reports of drivers (employees) being aware of the danger for years but were unable to convince their employers to replace the handbrakes (rnz.co.nz, 2021). Regulation has eventually solved the problem, but employee's concerns for the safety of those around them were largely ignored by their employers. One can only assume in this case that the employers did not see the safety of their employees, or that of the public, as morally concerning, or at least not enough to prevent them from putting their employees in a position where they had to choose between losing their job or driving a vehicle in a fashion that may breach their moral standards.

In the area of moral standards, the tasks an employee is asked to perform may not be the only problem; the way in which the task is to be performed may also constitute an unacceptable breach to the individual's standards. Due to both the threat posed toward their income, and a general unwillingness to offend, employees often find themselves doing mental gymnastics in order to refuse unethical requests in the workplace on company policy or economic grounds, a phenomenon known as the mum effect (Kassing & Armstrong, 2002; Ploeger, Kelley, & Bisel, 2011). One implication of this is that the requests are not being directly labelled as 'unethical' and the person making the request is not persuaded in any way to acknowledge their request as such (Bisel & Kramer, 2014). Another implication of this which we may acknowledge is the power imbalance at play, employees should not be put in any position where they are emotionally burdened by refusing to perform unethical requests, yet they are. The way in which employees are dealing with this problem tells us that they are fearful of offending their employer—the person responsible for

providing their employment and thus income and potential for wellbeing. However, the fact that employees react in this way should also show that their moral boundaries are important for them.

Individuals have a wide range of moral boundaries. Be it for good or for bad, this wide range also allows that some will be more willing to complete what may be seen as morally questionable tasks than others. Given that we are again dealing with the individuality of human nature, it must again be up to the individual to identify any aspects of employment that they may not be comfortable with and weigh them up against the other functioning constituents. I have tried to keep this discussion in terms of the inherent power imbalance between the employer and the employee, and I have not discussed risk of unemployment, as this has already been covered extensively throughout. Some further considerations around beliefs, standard of dress, etc. have also been left out of my discussion, but may be allocated a more important position by some:

- Degree of personal risk of reputation.
- Risk of danger to the public.
- Risk of danger to one's friends and family.
- Risk of not taking the employment.
- Acceptable standard of dress.
- Adequate respect as an employee.
- Adequate respect of customers and public.
- Clarity of the tasks required by employees.
- Lack of tasks outside of one's acceptable moral limitations.
- Ability to refuse additional tasks that go against one's ethical standards.
- Risk of offence to the individuals religious or cultural beliefs.
- Etc.

## 2.8. Conclusion

In Order for employment to be meaningful it must be determined as such by the individual, add to the overall life meaning of the individual, and it must afford the individual a sense of worthwhile achievement (Steger, Dik, & Duffy, 2012). Individuals wishing to achieve the sub-function of finding meaningful employment need to make a number of considerations, determined by the subjectivity of both the context under which employment is required, and the individual's psychological disposition toward their requirements for employment. The nature of contextual subjectivity allows for individuals to have different factors, many beyond the immediate control of the individual, which may, at times, provide motivation to take on employment which may fall short of being meaningful for the individual. In this regard, what may be seen as motivation by some, could in turn be called coercion by others. Much like the difference between an excuse and a reason, the difference between motivation and coercion is largely determined by who is telling the story. The point at which motivation becomes coercion may be different depending on the individual's requirements for employment. However, indicators such as the living wage give us a base for determining at which point an employee's basic costs of living are no longer being met. With the minimum wage in New Zealand falling \$2.75 per hour short of covering these costs, I must conclude that employee income currently has the potential to not only limit the availability of meaningful employment but may already contribute to a reduction to overall life meaning for many in New Zealand.

Income is also intertwined with the other functioning constituents relating to meaningful employment, due to the distributary role which money is given within capitalist society. In the absence of a minimum wage that is capable of supporting the cost of living for employees, other functioning constituents such as location and hours, personal freedom, health and safety, and moral wellbeing may also be given a position of less importance than they may otherwise receive. Although a more thorough investigation is required in this area, evidence to this effect appears to present itself in examples such as the number of people who chose employment within the primary industries, who take on much more risk to their personal safety, for marginally better income than the living wage. It would seem that if we had financial motivators, then those being motivated to take on more risk should earn much more than required to service their cost of living. However, if some types of employment are incapable of covering the cost of living, then even a living wage would seem worth taking an increased risk of injury, over the immanent risk posed to the individual's wellbeing, by being unable to afford to sustain it. This effectively turns income into a form of coercion rather than a motivation.

Until such time that the minimum wage is equal to the task of covering the basic cost of living, it is my view that the risk of employers presenting a lower than deserving income coercively is too great to be excluded from consideration. There may also be a compounding issue for those earning below the living wage. As noted earlier, if meaningful employment may contribute to an individual's overall life meaning, then it would be consistent that less meaningful employment may contribute to an individual's reduction in overall life meaning. If an employee's income is reducing meaning from other areas of their life, then it must also be reducing a portion of meaning from the other functioning constituents pertaining to their employment. This makes it difficult to assess an individual's subjective requirements for location and hours, personal freedom, health and safety, or moral wellbeing, free from coercion.

If employees are not free from coercion, then we cannot truly say that their decision around what employment is meaningful for themselves is being defined by the individual themselves. Thus, we cannot truly say that those who fall into these categories have unobstructed access to the sub-functioning of finding meaningful employment, as defined. This poses a problem for our capability to access the function of freedom of employment, because all sub-functionings must be achievable to give unrestricted access to the function.

## Chapter Three

### Personal Qualities

#### 3.0. Education, training & ability

The focus of chapter two can be seen as the environmental forces within capitalist society that relate to employment. For the most part, these forces are external to the individual and are important in the sense that they set the scene in which employment takes place. However, external forces are not the only thing that individuals need to consider if they wish to have access to their right to freedom of employment, in any meaningful way. Individuals must also take into account their personal qualities - their own knowledge, abilities and disabilities, all of which may influence both the type of employment they may desire, and their capability of achieving successful employment in such a role.

In this chapter I wish to address a subset of functioning constituents which some may require in order to achieve the sub-function of education, training and ability as displayed in figure 6 below. As previously discussed, all sub-functionings must be achievable by those who wish to exercise their right to freedom of employment, in any meaningful way. However, because we are dealing with individuals of differing abilities and disabilities, it is most clearly displayed here how an individual's access to some functioning constituents may be justifiably restricted. I will begin by outlining my position regarding the necessity for individuals to access education and training specific to employment that would be meaningful to them and establish the existence of such educational facilities. I will then discuss how the location of such facilities may also impact an individual's ability to receive the type of education they desire. Moving onto the functioning constituent of favourable conditions of entry, we can begin to explore the ways an individual may justifiably have their access to certain functioning constituents restricted. Because we should be aiming to have a meaningful selection of functioning constituents available for everyone to have the ability to achieve the sub-function - to receive an education which will aid them in reaching meaningful employment, we also need to look at what types of support are available for those with disabilities and how they may access what they require.

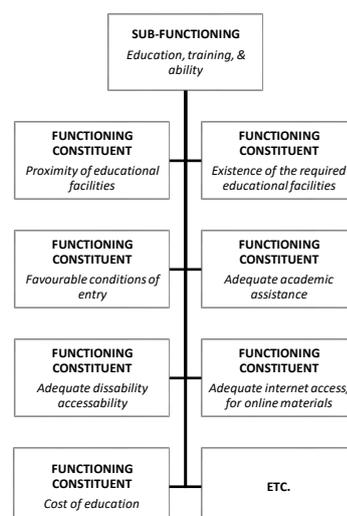


Figure 6 (Original, 2021)

### 3.1. Human Capital or Human Capability?

“[T]he ability to exercise freedom may, to a considerable extent, be directly dependent on the education we have received, and thus the development of the education sector may have a foundational connection with the capability-based approach” (Sen 1989, p. 55).

Most people are born with the natural capability to acquire new personal abilities. Although most of us possess this quality, the type of new abilities each may acquire are specific to the individual. Humankind has been collectively successful in the acquisition of a multitude of abilities and areas of knowledge, rendering each individual powerless to learn all there is to know, or experience all there is to experience. This forces the individual to make choices regarding which new abilities they may wish to acquire. Not only does the sheer volume of opportunities available to us force this choice, so to do our individual interests, abilities, and disabilities. For the reasons stated above, capitalist societies require a robust education system to help foster the successful acquisition of new abilities, which may be converted into employment opportunities for the individual. In this way, the education sector is often thought of in terms of investment in ‘human capital’ (Becker 1993, p. 12). The problem with this view is that investment implies a return, which diminishes the individual into nothing more than a commodity for others to profit from. This approach to the relationship between education and employment is not a bug in the system, it is a feature, as stated by Smith.

“A man educated at the expense of much labour and time to any of those employments which require extraordinary dexterity and skill, may be compared to one of those expensive machines. The work which he learns, it must be expected, over and above the usual wages of common labour, will replace to him the whole expense of his education, with at least the ordinary profits of an equally valuable capital... The difference between the wages of skilled labour and those of common labour is founded on this principle.” (Smith 2007, p. 84).

As discussed in chapter one, Anderson’s interpretation of Smith is that of an egalitarian attempt, thwarted by the onset of the industrial revolution (Anderson, 2017). This situation seems reminiscent of the type of contemporary misrepresentation of Smith’s work that Anderson discusses. It seems clear that Smith is talking about personal investment into one’s own education here and was not considering that the ‘machines’ with which an employee’s value may be pitched against would, in the future be built for relatively low cost compared to a year worth of labour at the median value. It was after all, the intention of Smith to develop a system that could build a society of free men, which we shall interpret here as meaning free people. If this is the case, then the human capital approach to education would not be sufficient to satisfy the requirements for individuals to exercise true freedom of employment that will enable them to live a life that is meaningful to themselves, and thus fail to achieve the development of a truly free society.

The capability approach switches the focus of education from a purely economic one, to a focus of what people are free to do or be (Kjeldsen & Bonvin 2015, p. 30). When taken in this way, education facilitates the freedoms which individuals may have access to. While the capability approach cannot entirely escape economic considerations, it places the emphasis on the ability of the individual to live a life deemed meaningful to themselves, which may or may not include increased productivity or wealth. Sen postulates education, if implemented correctly, as being beneficial to both the individual and society. On the individual level, education provides one with a personal conversion factor, and the ability to make an “intelligent choice between

different types of lives that a person can lead” (Sen 1989, p. 55; Kjeldsen & Bonvin 2015, p. 30). While on a societal level, correctly implemented education should provide a more equitable distribution of income and better overall productivity of the workforce. By taking the focus away from human capital, or return on investment in a financial sense, the capability approach to freedom of employment should focus on the ability for education and training to enhance the individual’s ability to have real freedom of choice within the employment market (Bonvin, 2012). Nussbaum argues that this freedom of choice within the labour market ought to be provided and protected by the state government, implying that it is the right of citizens to not only receive adequate education and training, but also to seek employment that will facilitate one’s ability “[T]o work as a human being, exercising practical reason and entering into meaningful relationships of mutual recognition with other workers” (Nussbaum 1999, p. 235).

### 3.2. Sub-Functioning -- Education, Training, & Ability

People have many different personal qualities. An individual’s qualities are shaped by their personality, environment, upbringing, culture, existing skills or knowledge, etc. These differing qualities help to inform and shape the types of new abilities an individual may wish to acquire in their life and in their employment. When it comes to employment, it is often the case that individuals are required to acquire additional personal qualities in order to perform the duties of their work in a safe manner and to an acceptable standard (think surgeons and the operators of large machinery). Individuals therefore need to take their own personal qualities, and how they wish to expand on them, into consideration when determining which type of employment, they may wish to work towards. In order for this pursuit to be successful, there are a number of things which the capabilities approach highlights we should ensure as a society. Firstly, educational facilities for the type of education an individual desires must exist, they must be reasonably accessible, entry requirements must be as open as is responsibly practical, there must be adequate support and assistance for those who are capable but have personal restrictions such as disability, there must be adequate access to learning materials, and they must be affordable for the majority of individuals. It should be noted here, that although the term ‘must’ has been used multiple times during the explanation of the above functioning constituents, it is still not the case that each individual must achieve all of them, only that each must be generally available, if required. There are also a number of vague references such as ‘reasonable’ and ‘acceptable’, which will be discussed in more detail throughout. It is perhaps important to note that any discussion here is in terms of what I perceive ought to be reasonable or acceptable, however in practice, such things should be determined by the citizens of a democratic society under the constraints of feasibility and potentially special protections for minorities.

Using myself as an example, we can see how despite not requiring disability assistance personally, I may still recognise the requirement for it to exist for the use of others. I do not currently possess any physical disabilities that impede my ability to gain an education. Therefore, I do not require any additional disability support as a part of my functioning constituent set. There are, however, many individuals in New Zealand who do possess a disability of the kind that may impede their ability to access educational facilities without additional support (MSD NZ, 2021). For this reason, we can see that while any given individual may not require this assistance, due to the existence of some individuals who do require assistance, such assistance must be generally available

to be invoked, if required. Failure to provide adequate disability assistance, would be a failure to provide the disabled demographic the opportunity to obtain the sub-functioning of receiving an adequate education. Thus, unnecessarily restricting access to freedom of employment for those with disabilities. Where an individual's disability is too great to overcome for certain types of employment, they should still have meaningful options available to them. Remembering that the capability approach does not require the individual to be guaranteed specific employment, but instead should have options available. To hark back to the shopping bag example from chapter two, it is more likely that any given individual will be able to achieve a satisfactory functioning constituent shopping experience if they have a wide variety of options available to them to choose from.

### 3.3. Functioning constituent – Existence of educational facilities.

In order for individuals to receive an education, there must first be a socially acceptable form of education available. In complex societies education is generally provided by way of educational facilities. The term 'educational facilities' will be used here to describe any location where training may be provided to individuals and is accredited in some form by either the government or the given industry. This includes on-site workplace training that results in the acquisition of trade qualifications. Since the focus here is education for the specific skills required to perform the duties of one's employment, we shall begin with the assumption that school level education in New Zealand is adequate to equip individuals with the skills required to enhance their own adult education. This either may or may not be the case, but it is far beyond the scope of this thesis to investigate the overall adequacy of the New Zealand childhood education system. If we work with this assumption and focus only on educational facilities as defined above, then we are left with a number of different ways in which individuals may access additional training in New Zealand. According to [universitiesnz.ac.nz](http://universitiesnz.ac.nz) and [studyinnewzealand.govt.nz](http://studyinnewzealand.govt.nz), we have a total of:

- 8 – Universities
- 54 – Institutes of technology, polytechnic. (ITP'S)
- 124 – Private training establishments (I.T, administration, etc.)

Along with:

- Trades (Building, hair and beauty, etc.)
- Armed services (police, army, navy, etc.)
- Licencing agents (pilot, driver training, etc.)
- Etc.

All of the above are examples of educational facilities which are available for access in New Zealand. It is fair to say that this list presents itself as a large array of available education options and in some cases provides multiple paths to similar outcomes, which is in line with what we should wish to see through the lens of the capability approach. Perhaps, the most apparent example of this is the choice between attending an institute of technology, or polytechnic (ITP) or taking on an apprenticeship in the pursuit of earning a trade qualification. In many cases both methods will result in the acquisition of the same qualification; with ITP's incurring fees in return for a faster path, and apprenticeship allowing one to generate an income while taking longer to train. For individuals without the means to pay a fee, or go without an income, an apprenticeship allows them to bring

home a small income while still allowing them to improve their skillset and work towards their goal of meaningful employment. However, for those with the ability to pay the fees, attending an ITP will provide the individual with the opportunity to shave time off their training, potentially allowing them to find meaningful employment sooner. Each example also provides a different method of educating, improving accessibility for those with different learning styles. These options apply for those wishing to work toward employment within a trade, building, construction, hair care, etc. Those seeking other types of employment may also benefit from similar access options such as, a number of ITP's which provide some of the same qualifications as universities, providing individuals with more options for where and how they can study for a degree. The armed services are a good option for those who are able to pass the entry requirements and do not mind taking on some additional risk. The Armed services provide access to a number of trade qualifications, university degrees, and licenses, while at the same time providing an income and also providing opportunities for acquiring additional skills.

Again, an obvious point but one that must be made, there is clearly no option here for murder school (depending on your view of the armed forces). The clear lack of educational facilities to provide what could be described as a criminal education is not a problem. There should be options available to enable the education of individuals that will help them to find meaningful employment, which by my earlier definition, must be lawful. So, it stands to reason that our contract killer example from chapter one not only holds no entitlement to their desired employment, but they are also not entitled to be educated for such employment. Therefore, it is not a requirement for the state to ensure the existence of such educational facilities which teach criminal skills, just as the state is not required to ensure the existence of employment of this nature.

Given this plethora of educational facilities and the differing ways in which each may help individuals to achieve their training requirements, it is clear that New Zealand does foster the creation and existence of educational facilities. As such, any lack of access to education cannot be attributed to a lack of educational facilities themselves.

### 3.4. Functioning constituent – Accessible location

We have established that a number of educational facilities exist within New Zealand. However, mere existence does not ensure that everyone has access to such facilities. There are a number of reasons why an individual may be unable to attend the education facility of their choice, the first we will look at is location. The location of educational facilities is perhaps the most pertinent factor in an individual's capability to attend. Varghese, argues that "[D]isparities in the distribution of knowledge and higher education will increasingly be the source of inequality among societal sectors, nations and geographic regions of the world." (Varghese, 2007). This represents a form of trap, whereby those who live in locations where access to educational facilities is limited, are less likely to receive qualifications. Those societies which now have a larger percentage of unqualified individuals are also less well-off as a result, leading to less ability to travel for education due to time constraints and cost, creating even less likelihood of receiving qualifications for subsequent generations (Kupfer, 2011; Bourdieu, 1984; 1998). In Figure 7 below, domains of wellbeing are assessed for the

population of Auckland on the left and the combined population of Northland, Bay of Plenty, and Gisborne on the right.

**Differences in the rates of low and high wellbeing for selected population groups, compared with the rest of the New Zealand population aged 15 and over**

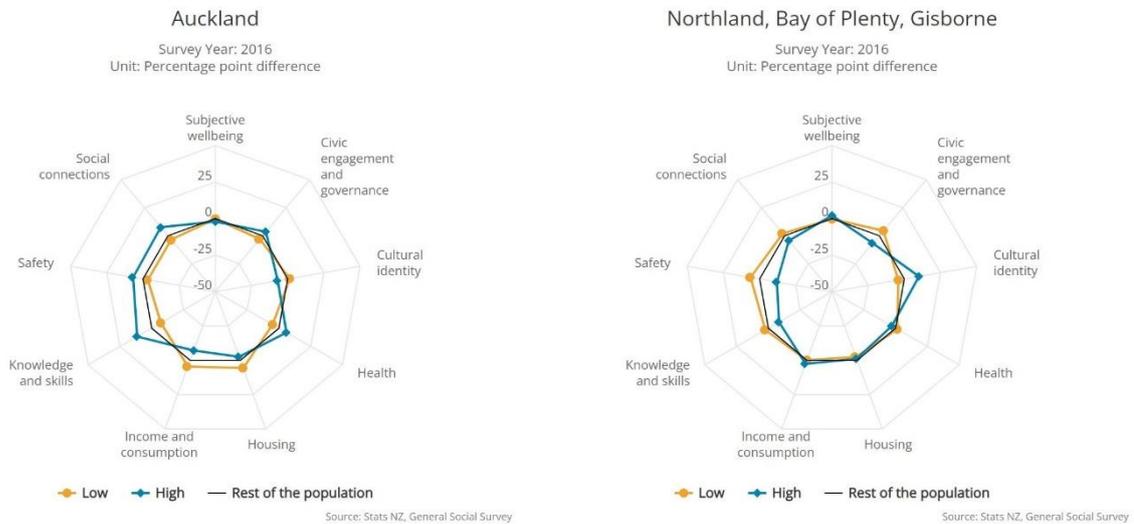


Figure 7 ([lsfdashboard.treasury.govt.nz/wellbeing](https://lsfdashboard.treasury.govt.nz/wellbeing)) Source: Treasury NZ and licenced by Treasury NZ for reuse under the Creative Commons Attribution 4.0 International license.

Auckland represents New Zealand's most populated region, is home to two of our largest universities, and also houses campuses from other universities around the country. We can see that the population of Auckland reports a decreased likelihood of having lower wellbeing in the domains of social connections, feelings of safety, knowledge and skills, civic engagement, and health than the rest of New Zealand. Those with access to universities and an assortment of employment opportunities appear to have a pretty good wellbeing outlook in most domains especially those of interest for meaningful employment, social connections, and skills and knowledge. It's instructive to compare Auckland with Northland, Bay of Plenty, and Gisborne who combined share only an offshoot campus from one university and are not geographically linked to each other. In these regions with limited access to universities, the population have the opposite outlook in regard to wellbeing. Here we see a higher likelihood of lower levels of wellbeing in the domains of social connections, feelings of safety, knowledge and skills, civic engagement, and health than the rest of New Zealand. Interestingly, those who reside in these regions enjoy lower house prices, equating to a higher likelihood of wellbeing in the domains of housing, income and consumption than the population of Auckland, and are also much more likely to have increased levels of wellbeing through cultural identity.

As per previous functioning constituents, it is not the case that all people require either a university, or and ITP, etc. to be located nearby, but it is the case that some individuals do. For those who do require access to a university for example, if there are none located within commuting distance from where they live and/or work and no ITP's offering their desired qualification, then they may need to temporarily move for the duration of their study. This must be acceptable to a certain degree; it would not be prudent to build a university in each town, and our universities in New Zealand are spread fairly well throughout the country. However, many educational facilities are

becoming increasingly flexible, with many lectures recorded for online viewing and the era of Covid-19 (Herguner, Herguner & Donmez, 2020; Chan, Bista & Allen, 2021), increasing the use of more interactive forms of remote learning which will hopefully be here to stay, such as lectures held through Skype and Zoom. With the ability to access a good portion of their education without the requirement of being physically present, individuals may find that they are able to be more flexible with how far they are willing to travel on the occasions that they are required to attend educational activities in person, opening up education options for more people.

### 3.5. Functioning constituent – Favourable conditions of entry

By favourable conditions of entry, I mean to say that the conditions of entering education ought to be broadly favourable for the main stakeholder categories involved: students, the education facility, and the community. These are three distinct stakeholder categories, which can be broken down into smaller stakeholder groups if required (Amaral & Magalhães, 2002). The category of student may be broken down by ethnicity, geography, age, sex, etc. The education facility may be broken down into faculty, management, directors, etc. These first two categories are largely made up of internal stakeholders, people who are actively involved with the education facility in their lives (Amaral & Magalhães, 2002). The third category, community, represents the external stakeholders such as private investors, government investors, employers, parents, and anyone who may be affected by the education process. Each of these stakeholder categories holds a claim to favourable conditions of entering an agreement for the individual to receive an education. What is likely to constitute favourable conditions upon the agreement made between the individual and the education provider may be different between categories and may also vary over time, depending on current government policy and public sentiment (Marshall, 2018).

Firstly, the individual has a claim to favourable conditions by way of not being obstructed in their attempt to obtain a qualification for any unnecessary reasons. Determining whether or not an obstruction is necessary should be relatively straight forward, in my view. If the obstruction does not serve to protect a negative right of the individual or others, then it is unnecessary. An obvious example of this would be the right for each employee and student to be free from preventable danger in the workplace. If a prospective student would in some way pose a sufficient safety risk to themselves, or other students and staff, then it would be necessary to obstruct this individual's access to their desired education on these grounds. However, if John has green hair, then it should not matter how many people dislike John's green hair, it should not affect his ability to access the education of his choice. We are currently seeing this play out in real time with the implementation of mandatory Covid-19 vaccination and Covid pass requirements for those employed as teachers, medical staff, etc. It is argued that, while it is true that individuals have the right to decide for themselves if they wish to be vaccinated or not, those same individuals do not have the right to decide what level of danger they impose upon others (Covid19.govt.nz, 2021). Covid-19 has been demonstrated to pose a significant risk to populations, and vaccination has been demonstrated to minimise this risk. In these situations, it is argued that the right of those to not be exposed to preventable danger overrides the individuals' right to employment in their role. It is not the case that it overrides their right not to be vaccinated, they still hold that right fully, but rights come as a package with obligations and consequences that can fall on other people. It is important to note, that those who choose not to be vaccinated against Covid-19 should still have meaningful

employment options available to them, they simply need to take their effect on the safety of others into account, just as anyone else who may negatively impact the safety of others is required to do.

The second stakeholder is the education facility, their claim is simpler, but equally as important. Favourable conditions of entry for the education facility are an agreement from the student that they will perform the tasks required of them, observe the rules, and respect the rights of others. The education provider requires this agreement so that they are able to observe their obligations as an employer, an educator, and as an entity that sends accredited individuals out to work in the third stakeholder, the community. As an employer and educator, an educational facility has an obligation to keep their staff and students free from unnecessary danger, but in the case of educational facilities, this is only part of the reason for their claim to favourable conditions of entry. Because the community is justified in having certain expectations toward qualified individuals, educational facilities also have a continued responsibility to ensure that the individuals who graduate from their facilities have been educated to an acceptable standard before being released into the community. For these reasons, an education provider may expect all students to agree to any conditions which they require to observe their obligations toward others. This may entitle some educational facilities to require individuals to hold certain prior qualifications as a condition of entry. This helps to ensure that more complicated qualifications may be taught in an efficient manner, achieving the best result for individual students and the community. Because the attitudes and capabilities of individuals may change over time, educational facilities offering these types of qualification often also offer what are referred to as bridging courses. Bridging courses are designed to 'bridge' the knowledge gap between an individual's current qualification and the entry requirements of their desired one and helps to reduce unnecessarily restricting entry to those who may now be in a different situation than when they last studied (Green 2015, p. 2).

The third stakeholder is the community. While not directly engaged with the agreement between the student and education facility, as discussed above individuals within the community who are qualified in a particular skill can command a higher wage when working within their skillset. Therefore, employers in the community have a stake in the education of those whom they will be expected to pay at a higher rate. If employers are expected to pay more for the labour of qualified individuals, then they have a right to expect that educational facilities will be providing adequate training and subsequent qualifications are awarded only to those who are worthy of their desired qualification. Employers also economically benefit from the existence of educational facilities through individuals investing in their own future pre-employment, rather than employers carrying the cost of training staff post-employment, providing another angle in which employers may hold a stake in the operational proceedings of an education facility (Marshall, 2018). Consumers within the community hold similar claims toward educational facilities as employers. The additional income commanded by qualified employees is not given by the employer, it is paid for by the consumer. Therefore, consumers should have the right to expect that the extra income commanded by qualified individuals is in direct relation to the additional safety and quality that comes with hiring a professional, failure to do so would not give any adequate reason for the qualified individual to command any higher income than the unqualified and as such would constitute a failure to provide favourable conditions of entry for the community.

It is only when the acceptable conditions of entry for all three stakeholders can be achieved that an individual's functioning constituent of favourable conditions of entry can be achieved.

Although it is not the sole responsibility of the individual to take all of this into account, one's suitability to perform the tasks of their desired employment should help to inform them of their decision to enter education for employment of such type. This is the first check to determine the suitability of the individual to safely and adequately perform the tasks associated with their chosen employment type and required education. If they find that they are unable to do so, then they are unable to satisfy the functioning constituent of favourable conditions of entry and should exclude themselves from progressing further down this particular path of education. It is within the best interest of the individual to abandon such employment aspirations, since they are likely to be denied the resulting qualification even should they be successfully enrolled, potentially wasting their own time and money. This is not to say that the individual does not have the right to work toward finding a way to allow them to overcome their disabilities, but until they are able to both offer and be offered favourable conditions of entry the individual needs to observe the rights of others to be free from unnecessary danger, in their education and employment decisions.

### 3.6. Functioning constituent – Adequate disability support

As noted above, an individual's abilities should help to inform them of their suitability to perform the tasks of their desired employment, and therefore which education they may wish to attain. The individual does however, upon acknowledgement of their disability, reserve the right to seek out options which may enable them to overcome their obstacles where possible. In the same way that educational facilities need to exist in order for them to be available, the same goes for differing forms of disability support. It is beyond the reasonable ability for every educational facility to facilitate options for every possible disability a prospective student may have, but there are some reasonable steps which may be taken to ensure accessibility to a wider range of people. These steps may include things such as wheelchair ramps, elevators, disabled toilets, etc. In order for disability support to be reasonable, it must increase capabilities for disabled individuals, but should not disproportionately reduce the capabilities of others. For example, an educational facility may spend a small amount on installing a wheelchair ramp which will allow better access for those requiring a wheelchair. Doing so will not reduce the capabilities of others, so there is no justification for not installing the wheelchair ramp. However, it would not be reasonable for an educational facility to spend half of their budget on accessibility options to improve the capabilities of a potentially small number of severely disabled individuals. By doing so, the educational facility would reduce capabilities for a disproportionate number of individuals compared to those who would benefit. For the most part, educational facilities in New Zealand do take steps to ensure those requiring wheelchair access have what they require. There are also systems in place for those who require learning and testing material in alternative formats i.e., for those visually or audibly impaired.

According to the New Zealand Ministry of Education (2021), there were 306,015 students enrolled in educational facilities in 2020, excluding on-site training and apprentices. Of these, 23,320 (7.6%) were listed as having some form of disability. To understand if disabled individuals have sufficient access to education we need to compare the percentage of students with disabilities, to the percentage of disabled people in New Zealand society. The number of working age (15 or over) disabled individuals who reside in New Zealand as of June 2021 sits at 247,100 compared to 3,849,800 non-disabled (Stats NZ, 2021). This situates the disabled working age population of New Zealand at around 6.4% of the total working age population. With no negative meaning implied, this

would constitute a slight over representation of the disabled demographic within educational facilities. Although only slight, this over representation indicates that the regulatory steps taken to ensure those with disabilities are not left out of our education system must, to some degree, be working.

The rights of those with disabilities to an education and employment are not specifically addressed under New Zealand law. Instead, the rights of those with disabilities is covered by the same New Zealand Bill of Rights Act 1990 as those without disabilities. As discussed in chapter one, this Act makes it unlawful to discriminate against others due to their differences, including disabilities. As stated above, if an individual is not capable of performing the tasks required to receive their education in a manner that fulfils the required safety practices, then this should not count as discrimination. However, if an individual is capable, but fails to gain access to their desired education due to an irrelevant prejudice, this would count as discrimination under New Zealand law. The New Zealand Human Rights Commission states that disabled individuals may experience discrimination due to things such as the way they look or think, their reliance on guide dogs, wheelchairs, or other remedial means. This discrimination can be subtle, creating systemic barriers that effectively block people from social and economic opportunities (hrc.co.nz, 2021).

I maintain here that there should be an emphasis on safety of both the individual and others, in our determination of which barriers are essential and which should be regarded as discriminatory, e.g. For the safety of the individual, and for that of the community, individuals without the ability of sight ought not to be awarded the qualification of a driver's license, without the licensing authority being hit with the charge of discriminating against the blind. However, if in the future there is an instance where fully operational self-driving vehicles are available and may be legally operated, then a lack of sight should no longer pose a barrier for the blind to operate such a vehicle e.g. (Martinez, Roitberg, Koester, Stiefelhagen & Schauerte, 2017). This change is caused solely by the safety factor, when the individuals lack of sight no longer poses a safety risk to themselves or others, there is no longer any legitimate reason to block them from operating a vehicle and any such barrier would now be deemed as discrimination.

The above example shows how some forms of assistance may also come from outside of the education facility itself and may be provided by third party organisations or technological sectors. This is an important aspect when looking at disability from a capability approach, because as human technology advances, so too do the opportunities available to those with disabilities. Like the blind driver, tasks that some individuals cannot safely complete today may be achievable for them in the future. As a functioning constituent, adequate disability support is not required by the majority of students and is highly susceptible to the individual needs of those for whom it is required. For this reason, individuals who require different assistance to the more common needs of wheelchair access, etc. may need to enquire with their desired education facility, any specialist foundations or within the community of those with similar disabilities, as to which options may be available to them to help support their education goals. Where some may find no satisfactory options, there needs to be a determination made as to whether this lack of options can be justified in the name of safety or if it is simply discrimination. It is important to ensure that even when some options are closed off for some individuals, there are meaningful options still available to them.

### 3.7. Functioning constituent – Affordability

The affordability of educational facilities and related materials is paramount to individuals being able to have access to education. In New Zealand, as with many other countries we have a competitive market-based education policy containing an element of control by the government. Under this current system the state subsidises the majority of the cost for each student and the individual contributes the rest (McLaughlan, 2003). This was extended by the Labour government in January 2018, to include 'Fees-free' or the full subsidisation of the first year of study toward a qualification in New Zealand. McLaughlan, writing on her research findings of New Zealand education policy noted that, prior to the mid-1980's, the New Zealand government fostered an environment of almost free tertiary education, using what is commonly referred to as an elite system of public funding to target a smaller number of under-represented individuals. Even with tertiary education essentially free, the number of people entering tertiary education was in decline. The late half of the 1980's saw New Zealand's economic policy shift to a much more market-based approach in general, under a series of economic policies designed by the Minister of finance at the time Roger Douglas, often referred to as Rogernomics. During this time there was a shift to the tertiary funding system which is currently in use, commonly known as a mass system of public funding. A mass system is where the bulk of tertiary education costs are subsidised in a blanket fashion across the entire population, with individuals contributing the remainder (McLaughlan, 2003). Surprisingly, making people pay for a portion of their own education resulted in increased enrolment in educational facilities, a trend which had continued up until 2003 when McLaughlan was compiling her data. However, according to the Ministry of Education's Provider-based enrolments statistics for 2011-2020 Attendance numbers have consistently been in decline since 2011, with a slight uptick (around 1000) in 2020. Despite this small increase in attendance, 2020 still closed out with around 14,255 less students than in 2017, the last year prior to the introduction of the Fees-free program. Both of these cases suggest that making tertiary education free may run counter to the intended purpose of doing so, or at least has little impact in a New Zealand setting. With this in mind we still need to ensure that the costs incurred by the individual are not unnecessarily restricting access for those in lower income brackets.

The shift to a mass funding model came with a focus on a competitive market-based approach to education and also brought student loans and living cost allowances, which were both in place in some form before the end of the 1980's (McLaughlan, 2003). The current student loan system in place in New Zealand is run by Studylink, which provides loans to cover the cost of education fees, course related costs up to \$1000 per loan period, and a living allowance of up to \$250 per week. Once a loan agreement is signed off, the loan is then transferred to the Inland Revenue Department (IRD) for collection. Student loans in New Zealand are interest free, so long as the borrower remains in New Zealand and do not need to be paid back until the individual is earning over \$20,020.00 per year, after which they are paid back at 12% of every dollar earned above the threshold. Here we have a glaring problem, \$20,020.00 per year is less than half of the living wage of \$47,320.00 per year (working 40 hours p/w). The living wage of \$47,320.00 has been calculated as the cost of living a basic life, as discussed further in chapter two. How are those earning \$30,000.00 or \$40,000.00 per year expected to have \$1,200.00 or \$2,400.00 respectively, to spare for making their repayments? Individuals considering taking on debt, with no guarantee of success in finding

suitable employment which would allow for the repayment of such debt, may hinder the individual's ability to find the terms of this arrangement agreeable. This should be understandable, since Figure.nz shows median student loan debt as of 2020 at \$16,422.00, for most people this may be one of the top two or three largest expenses they may face in life.

We run into similar problems when considering students aged 25 and over who, in 2020 made up 193,825 students nation-wide (Ministry of Education, 2020). Older students are more likely to be burdened by higher living costs associated with having children, mortgage, etc. Even should we assume that such an individual can sustain themselves through a combination of student loan, living allowance, part time work and some form of benefit during their study period; with a \$20 p/h minimum wage, we cannot assume that they will find employment which will afford them the ability to sustain their living costs while making repayments on their student loan afterward.

Having a repayment threshold is a good idea, but I would argue that repayments ought not to be made until the individual is earning living wage or above. The living wage provides individuals with the capabilities required to afford the basic costs of living, including the ability to participate as an active citizen. Raising the repayment threshold to be in line with the living wage would ensure that everyone paying back their student loans would only do so after their basic living costs had been taken care of and also allow for students to take on additional part time work while they study, without being penalised with loan repayments. A median student loan debt of \$16,422.00, while not high compared with some other countries, is still a very heavy debt for those who do not have it, as such may still provide an unnecessary obstacle for many individuals, particularly for adult students with heavier financial burdens to begin with. For these reasons it cannot be said that the functioning constituent of affordability of education can currently be achieved by an acceptable number of people.

### 3.8. Conclusion

Sub-functionings, such as education, training and disability are complicated. Their ability to be achieved through multiple different avenues, despite creating opportunities, also creates a wide range of issues, as well as a wide range of things which may obscure those issues from view. Individuals who may not require a particular functioning constituent to achieve their sub-functioning, are likely not to consider those who do. For this reason, it is my hope that by breaking down each sub-functioning into packets of functioning constituents it will be easier to identify ways in which policy might help. The functioning constituents discussed above are all connected to the individual's personal qualities or attempts to expand on them, making these much more personal to the individual than those of previous chapters. Individual readers may or may not relate to some or all of the issues discussed, that is not important. What is important is that policy makers may better appreciate the multi-faceted obstacles to freedom of meaningful employment for differently abled individuals. The idea is to find an achievable pathway to the sub-functioning and identify any obstructions. Where obstructions may be found, a determination must be made as to the ability to defend the necessity of the obstruction.

In the first instance, the of existence of educational facilities was found to be an achievable functioning constituent in New Zealand. Though we do have some regions which may be regarded as remote, eight universities, 54 ITP's and 124 private training institutions cannot be regarded as a lack

of educational facilities for a relatively small nation of around 4.7 million. If we focus on universities for comparison, with eight universities New Zealand has a ratio of one university per 587,500 people. This is comparable with our closest neighbour Australia, which has a population of around 25.36 million and is home to 43 universities ([studyaustralia.gov.au](http://studyaustralia.gov.au), 2021), which gives a ratio of one university per 589,767 people.

Some individuals may be required to relocate for the duration of their study, commute, or work within options to study remotely. This is acceptable due to simple practicality, and with more access to remote learning options available due to Covid-19 restrictions, we may hope to see increased participation. Those living in areas such as Northland etc, may find this particularly useful if they desire a university education for example. Perhaps increased access to remote learning may even explain the uptick in participation in 2020. There does appear to be educational facilities within an accessible location for most people in New Zealand, but statistics show that more effort may be required to allow accessibility options for those living in more remote areas.

The functioning constituent of acceptable conditions of entry brings about a more personal challenge and a number of different stakeholders. By grouping these stakeholders into student, education facility, and the community, we could treat them like sub-functionings with each group being made up from smaller stakeholder groups that may each hold differing claims to each other but share in their claims on student enrolment. The focus here was on the individual taking account of their own personal qualities and disabilities. In doing so, there should be a heavy focus on negative rights, particularly the right to be free from preventable danger, to determine the legitimacy of impeding the individual's entry into education. Prospective students need to consider whether they are entering education of a type where they will not pose a risk to themselves or those around them and adjust their intentions accordingly. Educational facilities, being more knowledgeable in the requirements of what they are teaching should also weigh in on these grounds. If an individual is not aware of the risks that they may pose, it is up to the education facility to deny access for such an individual, or risk failing to uphold their obligations to the community. For the most part, market systems tend to draw more people in rather than exclude them, due purely to economic motivation. It would seem unlikely that there is any unnecessary restriction of access to educational facilities for non-disabled individuals, and I was unable to find any evidence suggesting that there is. It is also notable that the working age disabled demographic is over represented within educational facilities, suggesting that our current system is doing well to encapsulate those requiring disability support.

When it comes to cost as a functioning constituent, we see examples such as student numbers in decline despite the belief that reducing or eliminating the cost would enable greater participation. Perhaps indicating that the particular moment in time had more urgent but obscured reasons for the decline. The main problems I see with the affordability of education in New Zealand is a combination of the median \$16,000.00 price tag, and the student loan scheme, or more accurately the repayment threshold. This is not the first case of the New Zealand government failing to consider the costs of living, despite the recommendations of what a living wage should be and what it costs to survive a basic life in New Zealand. I also detailed in chapter two, how the government-set minimum wage is also lower than the determination by LWANZ, of what a living wage should be. I would call into question the government's overall reasoning here, as it is difficult to understand how only being \$27,300.00 short of covering your basic living costs, is the point at

which it is implied that one can afford to pay their back their student loan. Being one of the largest loans an individual will have during their life, it cannot currently be said that affordability is not an issue when it comes to education for many people in New Zealand, until we can address these obvious hinderances.

## Chapter Four

### The State: Responsibility, regulation, and intervention.

#### 4.1. Introduction

In previous chapters, I have discussed the role of environmental and personal factors surrounding the individual's access to various aspects of their freedom of employment. For the most part, this has seen us negotiate potential functioning constituents that may allow the individual to realise the achievement of their required sub-functioning. However, these sub-functionings, and their subsequent functioning constituents do not exist in a vacuum, they exist as part of the framework of our economic and distribution system. The rules which govern this system are not natural laws as implied by the free market concept, but instead are conceptualised, developed, altered, and maintained by select individuals. In a democratic society, those entrusted with this task are those who are voted into government by the citizens of the state. In this chapter, I will discuss the relationship between state government, economic systems, business, and employees through the lens of not only the capabilities approach, which promotes equality of opportunity, but also through a version of Anderson's 'democratic equality' as developed by Gunderson (Anderson, 1999, & Gunderson, 2013).

I will begin by explaining my reason for incorporating democratic equality at this stage. Following on from my arguments in chapter one, I will argue that the state holds a duty to regulate markets in accordance with their primary duty of safeguarding the rights of those under their care. Using these principles, I will assess the suitability of current government regulation on restriction of employer power, minimum wage, and unemployment assistance. These represent three reoccurring themes under the purview of government regulation, which keep cropping up as potential obstacles to the achievement of a sufficient number of functioning constituents for some individuals. I will then briefly discuss the importance that both adequate infrastructure and social narrative may play in relation to access to meaningful freedom of employment. These represent the functioning constituents that fall under the sub-functioning 'receive adequate government intervention' in Figure 8 below.

This is a small number of functioning constituents which have been shown in previous chapters to affect many individuals in New Zealand. As with the previous sub-functionings discussed, my intent is not to create a complete list of potential functioning constituents, but to highlight the complexities of obtaining meaningful employment for the individual. Each individual may have a different set of functioning constituents which they require in order to satisfy the same sub-functioning. Through accurate identification of the types of employment obstacles faced by individuals, those producing policy will be better equipped to enable meaningful freedom of employment for as many people as possible.

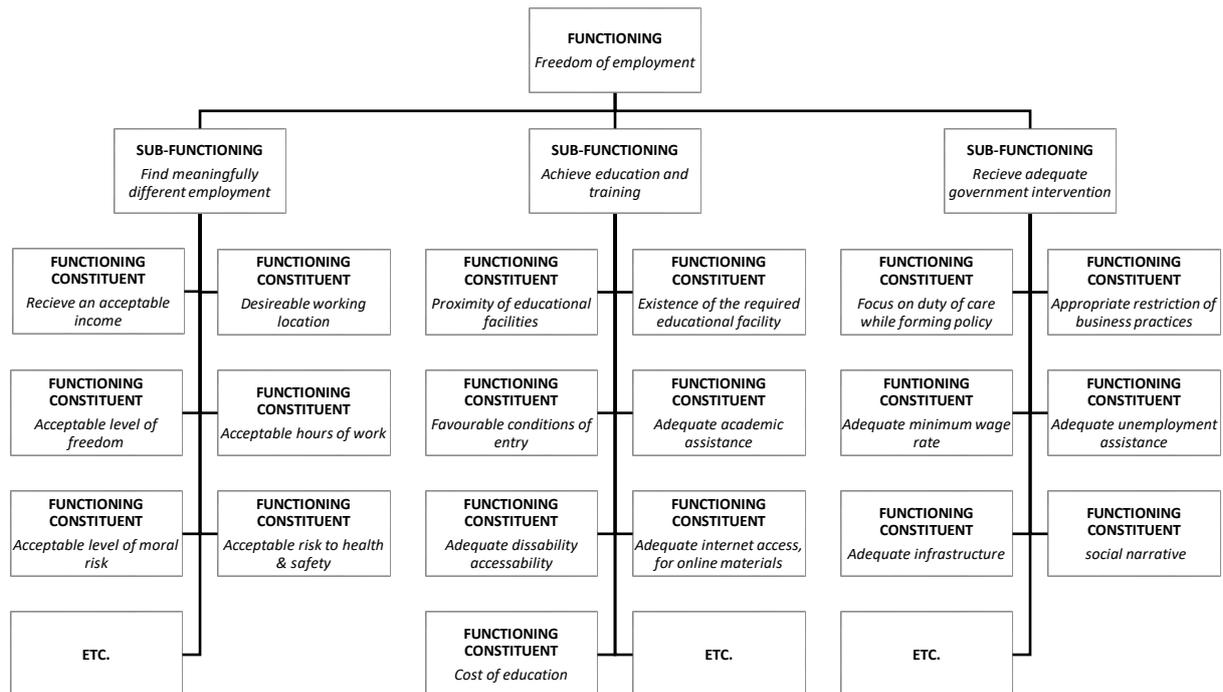


Figure 8 (Original, 2021)

## 4.2. The importance of democratic equality

*Democratic equality* is an egalitarian theory developed by Elizabeth Anderson and described in her essay “What is the Point of Equality?” (1999), wherein individuals compose themselves within society as beings of equal moral value. Democratic equality denounces all forms of inherited hierarchy, creating the requirement to justify the presence of hierarchal structures wherever they are found. By requiring power to be justified and not simply given or taken, “[d]emocratic equality guarantees all law-abiding citizens effective access to the social conditions of their freedom at all times” (Anderson 1999, p. 289).

The social conditions of freedom that Anderson discusses can also be described as *capabilities*. The notion of capability that Anderson uses is taken directly from the capabilities approach of Amartya Sen (1979). To be properly implemented, both the capabilities approach and democratic equality require the state to maintain an environment that can maximise the capabilities available to individuals. However, democratic equality also has a strong emphasis on ensuring that interactions between individuals are entered into on the basis of mutual recognition of equality of moral value. Because we are dealing with the regulation of power discrepancies in this chapter, we now require a way to equalise such power, and a gauge to determine when power is not being adequately regulated. Democratic equality provides us with these tools in the following way: if individuals interact with others based on the understanding of democratic equality, it follows that any power discrepancy between interacting individuals must be justified. It also follows that those in a position to exert power over others ought to be able to justify to a standard acceptable to all parties each instance of using their power over others. Anderson puts these ideas as follows:

“...democratic equality regards two people as equal when each accepts the obligation to justify their actions by principles acceptable to the other, and in which they take mutual consultation, reciprocation, and recognition for granted” (Anderson 1999, p. 313).

Democratic equality does not entail that one individual cannot hold a position of power over another individual, nor does it mean that power structures are intrinsically bad. Many environments such as educational facilities, workplaces, homes, communities, states, etc. often require power structures to properly function. In a workplace, for example, if all employees simply arrived at their place of employment and started to do whatever they wanted, then the workplace would probably be unsafe and the business unsuccessful. As a result, the employees would probably find themselves either injured or out of a job (or both), and the employer might be left without the funds required to fulfil their obligations toward employees and customers. It is therefore in the best interests of all stakeholders that there is a power structure to ensure the smooth functioning of the business. This power structure enables the stakeholders to effectively train and guide employees, to decide on operating procedures, to ensure that the employer is fulfilling their obligation to provide a safe work environment, etc. What is important for democratic equality in a workplace power structure is that power exists only to facilitate the employer’s ability to fulfil their obligations. Any power exerted over employees for reasons beyond this must be determined as arbitrary until justified and may run counter to fostering an environment which maximises employee capabilities.

#### 4.3. Functioning constituent -- Appropriate restriction of business practices

In the case of New Zealand, employment power structures generally take a dictatorial form. They are dictatorial because workplace rules are decided upon and enforced by the employer in their capacity as a governing body. While many may disagree with the dictatorship power structure on a state level, it is currently more practical than democracy in a business scenario (Anderson, 2017). However, unlike states under dictatorship which are generally sovereign nations, not answerable to anyone, business in New Zealand operates from within a capitalist democracy and is subject to the laws of the state. This allows the state to not only place limits on the amount and types of power that employers are able to hold over their employees, but also to set regulatory standards for entire industries such as food hygiene standards, or even the entire workforce such as minimum wage, trial periods, etc.

From a very basic perspective, the power structure within the New Zealand employment market incorporates the employee as the least powerful, employers in the middle, and the state government as the most powerful. However, this is not a linear relationship, as employees may engage with their employer and also at times with the government. Employers may engage with both employees and government, and it follows that government must also have the ability to engage with both employers and employees.

All of this engagement is a good thing, as Gunderson points out, given that “[i]nterpersonal justification requires that people have a voice in how they are treated and access to participation in the creation of policy by which they will be governed” (2013, p. 133). In a democracy, interpersonal justification is achieved through voting and parliamentary processes. Under democratic equality, those chosen to represent the voice of the voters have a moral obligation to “preserve the capabilities necessary for free and equal citizenship” (Anderson 1999, p. 326), a task which may at

times require the government to provide assistance toward employees, or the regulation of some employer power. As discussed in chapter two, while employers have an obligation to safeguard the wellbeing of their employees, they do not have any obligations towards employees of other companies unless they have reason to interact with them. Employers are also under no obligation to safeguard the wellbeing of the employment market, the environment, the economy, etc. unless these obligations are placed on them by an outside force, such as the government. These are areas that a democratic government does have an obligation to safeguard, so long as voters are expecting them to do so.

Apart from having the ability to safeguard those areas that employers do not hold an obligation to protect, the state government may also place regulations or restrictions on the ways in which employers can interact with employees. Due to their necessary possession of power over employees and their political structure, Anderson refers to employers as 'private governments' and strongly argues that justification ought to be provided for the types and extent of the power employers are able to exert over their employees:

“[P]rivate governments impose a far more minute, exacting, and sweeping regulation of employees than democratic states do in any domain outside of prisons and the military. Private governments impose controls on workers that are unconstitutional for democratic states to impose on citizens who are not convicts or in the military.” (Anderson 2017, p. 63).

Although she is writing in an American context, Anderson's views clearly apply to the New Zealand context as well. I would also note that in light of the current Covid-19 pandemic, we should add 'national state of emergency' to Anderson's list of exceptions. In normal times, the government is not entitled to restrict an individual in many of the ways that an employer can. The New Zealand government cannot tell you what you are allowed to wear, how to cut your hair, when you can rest or eat, when you may answer your phone, or the radio stations to which you are allowed to listen. These are only a few examples of how sweeping an employer's power can be over their employees. This power discrepancy between employer and employee and the need for such power to be justified by their obligation to safeguard the wellbeing of their employees is discussed in more detail throughout chapters one and two. With regard to the role of the government, such a discrepancy, along with the employer's lack of automatic economic and environmental obligations, highlights the requirement for the functioning constituent of appropriate restriction of business practices.

#### 4.4. Functioning constituent -- Adequate minimum wage rate

One example of the restriction of business practices discussed above is a government-imposed minimum wage. Arguments in favour of minimum wages are often linked to discussions of poverty, as is detailed by e.g., Maloney & Pacheco (2012) and Alinaghi, Creedy, & Gemmell (2020). While it is true that minimum wages do help to alleviate poverty, a 2012 study on the historical effects of minimum wage policy in New Zealand indicates that the minimum wage may not affect poverty rates as much as one might think. The authors of this study write:

“Overall, it would be fair to conclude that minimum wage workers were relatively more likely to be located in lower income deciles. For example, 39.5 percent of minimum wage workers were located in the bottom three deciles in 1997–99, compared to just 16.2 percent in the top three deciles.” (Maloney, & Pacheco 2012, p. 659).

Maloney and Pacheco’s findings imply that between 1997-1999, 60.5% of minimum wage earners were not located within the lower three deciles, therefore not living under conditions of poverty. They put this down to many factors, including teenagers who often earn minimum wage but live with better paid parents, individuals who have a high-earning partner and work for minimum wage, etc. While raising the income of the 39.5% of minimum wage employees who are located within the lower deciles would likely result in a valuable increase in their capabilities, it is not the case that being raised from poverty is a requirement for the majority of minimum wage earners. This is not to say that minimum wages are currently adequate, but that a stronger argument is required for their justification. I would suggest that the core ideas of democratic equality can enable us to produce such an argument. To do this, we must first think of money and wages as what they represent within capitalist societies: power.

In an employment relationship between an employer and a low-skilled employee, we have an automatic power discrepancy between those who have a large pool of power to exchange for labour, and those who need some power and cannot obtain it with anything except their labour. This power discrepancy is unavoidable and justifiable. As stated above, the employer has an obligation to ensure that their business is profitable enough to fulfil their obligations as an employer. Also, as discussed in chapter two, those doing low-skilled labour are less likely to have wealth to build. The real problem is evident if we attend to the dictatorial governing structure between the employer and employee, which gives the employer the power to decide how much they are willing to pay for labour and when they are willing to increase this rate. Given that labour is a cost of business, business profits are higher for the same amount of work if the employer pays less for wages. This presents a conflict of interest in favour of the employer in the case of wages for low-skilled employees, which cannot be resolved using free market ideology as it can be with skilled employees, as discussed in chapter two. In order for the employer and the employee to interact with each other on grounds of equal moral value, this power discrepancy needs to be regulated. The individual low-skilled employee does not have the capability to balance this power, and the employer is the subject which requires regulation, so they should not be given additional power. Without widespread unionisation, this leaves only the state government with both the power and obligation to regulate employer power by negotiating a fair wage for low-skilled employees in New Zealand.

In New Zealand, the current minimum wage for those aged 18 years and over sits at \$20.00 per hour. However, as discussed in more detail in chapter two, this falls short of the

calculated living wage by \$2.75 per hour, or \$110 for a 40-hour work week. With 175,500 minimum wage employees in New Zealand (MBIE, 2021), it would appear that many employees are taking on employment which does not provide them with the capabilities to cover even the basic cost of living. This tells us two important things. Firstly, that when presented with a minimum allowable wage, many employers will choose to pay at least some staff this amount. Secondly, that current minimum wage rates allow for at least some full-time workers to not be adequately compensated for their labour, where adequate compensation includes at a minimum the ability to afford the basic cost of living.

This second condition may also have greater implications for minimum wage employees overall. As discussed in chapter one, the simplified concept of supply and demand stipulates that a commodity gains in value when it is in high demand and depreciates in value when demand is low. It does not say that a commodity gains in value because the commodity itself requires more capabilities. For this reason, raising the income of those in the same situation as the 39.5% of people discussed above cannot be accounted for under a market system. In a market system, if demand increases, then wages will go up; if demand decreases, then wages will go down; and, if employees simply need more money to survive, the market does not react. This should not be a surprise, as markets aren't designed to react to such things. It is however the obligation of the state to ensure that its citizens have the capabilities that are required for active citizenship and affording the basic cost of living is a requirement of active citizenship. To fulfil its obligations, the New Zealand government ought to exert their power to enforce a minimum wage that provides all full-time employees the capabilities for active citizenship.

We have not yet accounted for the labour value of the other 60.5% of individuals who were able to afford the basic cost of living through other means but are no less deserving of the same compensation for their time and labour as those who could not. If we continue with the democratic equality approach, employers now have to justify why one individual's labour is worth more to them than another. This would be hard to do based solely on one individual's needs compared to the other, especially where both parties may be completing the same work.

This provides evidence that the current minimum wage in New Zealand is failing to provide some employees access to the functioning constituent of adequate minimum wage rates. Additionally, I provide reasons above for increasing the minimum wage to be in line with the living wage at any given time. As with other functioning constituents, it is not the case that the current minimum wage is inadequate for everyone, but \$110 per week is a lot for those without any other means to afford the basic costs of living, and certainly creates an unjustified obstacle for the achievement of meaningful freedom of employment.

#### 4.5. Functioning constituent -- Adequate unemployment assistance

We have so far discussed how government intervention may be required to limit the powers that employers hold over their employees. However, it may be the case that even when all power discrepancies have been accounted for through regulation, an employee is still unhappy with the conditions of their employment. This could be for any number of reasons, e.g., that they find the tasks that they are required to complete unpleasant; that they find certain rules unpleasant, despite the fact that the rules have been adequately justified; that their wage is higher than minimum wage but lower than that of similar employment; etc. These examples show that while regulation of the employment market is necessary to provide some individuals with the capabilities for active citizenship, regulation alone is not sufficient to provide individuals with the capabilities to find employment of a *meaningful* nature. For this, the individual requires options and the capabilities to take advantage of such options. The various ways in which changing employment may present a risk to the individual's wellbeing and that of their family are discussed in chapter two, not least of which is the risk of unemployment. If we wish for individuals to have the capabilities required for meaningful freedom of employment, then adequate safety nets are required to ensure that these risks are mitigated.

Due to the Covid-19 pandemic, we are able to compare two different safety net systems currently in use in New Zealand: the unemployment benefit and the Covid-19 wage subsidy scheme. Each system has different requirements for acceptance and some different parameters around how they are run, resulting in the actual payments received by individuals differing on a case-by-case basis. These complexities allow for some individuals, in either of these systems, to receive more than adequate income while not working. The functioning constituent of adequate unemployment assistance would already be achievable for these people. In the present discussion, we can set such individuals aside, as the discussion is grounded on those who require the functioning constituent of adequate unemployment assistance as a safety net in their pursuit to find more meaningful employment. What is of concern here is the base level of income an individual is able to receive while they are unable to work.

A concern might be raised that there are additional types of assistance which individuals may access if they require them, and that for this reason, the figures that I use below are incorrect. I would reply, however, that if this additional assistance is designed to help with anything which may be regarded as a basic cost of living, then it should not be treated as additional to the base level of income which any individual may receive, and therefore needn't be added to the figures under discussion.

I will start by looking at the current income for individuals 25 years or over receiving the Job Seeker benefit in New Zealand, who according to Work and Income New Zealand are entitled to a total of \$278.50 per week, as of 1<sup>st</sup> July 2021. I have used the income gained from the Job Seeker benefit because it is especially useful to focus on this benefit type when considering those who are between employment. In particular, I will consider this benefit in connection with the living wage.

As calculated by Living Wage Aotearoa, the 2021/2022 living wage in New Zealand is \$22.75 per hour, or \$910.00 per 40-hour week before tax. I should note here that living wage is a calculation of the very basic costs associated with supporting two adults and two children on 1.5 full-time incomes. I have chosen here to focus on the one full-time income, as this more closely resembles reality. Admittedly, I might have chosen instead to work off an individual working 30 hours per week.

However, this would not have led me to draw a different conclusion. Moreover, it would require both adults in the family to work 30 hours per week, whereas 40 hours per week is still widely viewed as standard in New Zealand and is thus much more realistic. For this reason, I have adopted the literal meaning of '1.5 full-time incomes,' understanding this expression as denoting the income earned by one individual working full-time and a second individual working part-time. Given this approach, it should of course be accepted that the loss of income from the one in full-time employment would be regarded as a much greater loss of capability to afford the basic cost of living.

A living wage provides the income necessary to enable workers to participate as active citizens. The organisations supporting Living Wage Aotearoa New Zealand articulate this point well, writing that:

“The NZLW is defined by Living Wage Aotearoa New Zealand as: The income necessary to provide workers and their families with the basic necessities of life. A living wage will enable workers to live with dignity and to participate as active citizens in society.”  
(Livingwage.org.nz).

The capabilities approach thus requires employers in New Zealand to pay their employees a living wage, as they thereby provide their employees with the capabilities that they need to participate as active citizens. Democratic equality not only requires this, it also requires justification where such capabilities are not being supported.

It should be noted that there are no fundamental differences between the basic cost to sustain the life of an employed person and that of an unemployed person. There may be differences in living costs due to personal choices; however, the state is not required to insure against individuals' personal expense choices, only their capability to participate as active citizens. Due to the large difference between the income gained from the Job Seeker benefit and the basic cost of sustaining human life including active citizenship, it must be concluded that the current New Zealand Job Seeker benefit does not meet the criteria to provide individuals with the functioning constituent of adequate unemployment assistance. Without the security of adequate unemployment assistance, individuals may be less likely to risk secure employment in an attempt to obtain meaningful employment, and as a result may remain in employment which is inadequate to serve their needs, as discussed in chapter two.

By contrast, the Covid-19 wage subsidy scheme currently provides \$600.00 per week for full-time employees who are unable to work due to Covid-19 alert levels. While this payment is first made to employers, it is the minimum amount that a full-time employee will be paid as part of the scheme. Unlike the Job Seeker benefit above, tax does need to be removed from this before the employee receives it, even though the employee is left with an income well above that of someone receiving the Job Seeker benefit. Although this is a vast improvement over the income gained from the Job Seeker benefit, the base wage subsidy with no employer top-up still falls \$310.00 per week short of providing employees with the capabilities to participate as active citizens in society.

#### 4.6. Functioning constituents -- Adequate infrastructure & social narrative

I will conclude this chapter with a brief discussion on the importance of the functioning constituent of adequate infrastructure and social narrative. When describing the capabilities approach, Sen is known to use the example of a bicycle for clarity. In this example, the simple ownership of a bicycle is not sufficient to provide one with the function of riding a bicycle. For this, one requires a number of other things, such as somewhere to ride the bicycle, knowledge of how to ride a bicycle, an inclusive social narrative according to which riding a bicycle is acceptable behaviour, etc. (Clarke, Seager, & Chester 2018, p. 344). In this example, it is clear that if the rider was to lose any one of the above capabilities, then they would also lose the function of riding a bicycle. This is because people cannot ride a bicycle with nowhere to do so, or if they do not know how, and they are less likely to ride if it is not socially acceptable for them to do so. These, then, are the basic capabilities required to enable an individual to ride a bicycle; anything less would not suffice, even if the individual is in possession of a bicycle.

The concept of bicycle riding is relatively simple compared to that of meaningful freedom of employment. However, when considered in light of the capabilities approach, they are nevertheless importantly similar. The bicycle rider requires somewhere to ride, and this requires infrastructure such as a path, road, park, etc. Employees typically require the ability to get to and from work, this may require adequate roads, walking paths, carparks, public transport, and possibly even bicycle lanes, all of which fall under the purview of infrastructure. Employees also require the ability to perform the tasks of their employment. This may require other forms of infrastructure such as telecommunication networks, electrical grids, plumbing, wastewater, fuel/charging stations, gas lines, etc. These forms of infrastructure are critical to ensuring the health, safety, and wellbeing of New Zealand citizens by providing capabilities and facilitating access to meaningful employment. Meaningful employment is crucial to an individual's ability to obtain an income which is able to provide them with the capabilities to participate as an active citizen. As in the bicycle example, the absence of sufficient infrastructure may also render the individual unable to achieve the sub-functioning of adequate government intervention, which is required to achieve the function, i.e. to find meaningful employment.

It is often the case that social narratives can play a role in how such infrastructure is received by the public. One example of this can be seen in the social narrative around wind turbines, which are installed to provide a safe, clean, and sustainable energy source. Roberts and Roberts portray the problem as follows:

“At present, a specific health condition has not been documented in the peer-reviewed literature that has been classified as a disease caused by exposure to sound levels and frequencies generated by the operation of wind turbines. Communities are experiencing a heightened sense of annoyance and fear from the development and siting of wind turbine farms. High-quality research and effective risk communication can advance this course from one of panic to one of understanding and exemplification for other environmental advancements.” (Roberts & Roberts 2013, p. 8)

The result of the negative social narrative sustained by many individuals is the petitioning and sometimes effective blocking of wind turbine farms, which could help to improve their capabilities.

A similar phenomenon has been observed by Bean, Kearns, & Colins (2008), who identify a poor social narrative in New Zealand pertaining to forms of public transport as a major obstacle to the uptake of participation in their use. In an in-depth review of public perception of transport options in Auckland, McArthur (2019), discusses how the narrative supported by government is generally in favour of status quo infrastructure, such as improved roading and increased speed limits. McArthur found this to be in contrast to the narratives of activists, who were in favour of government providing more options for how individuals can get around. (McArthur 2019, p. 53).

In an assessment of the effects of social media on crisis narratives and management, Zhao, Zhan, & Wong discuss the requirement for crisis managers to build an understanding of online narratives. Social media allows many individuals to take control of different portions of social narratives. This is exactly what we should wish to see in a democracy. However, this creates a requirement for the government to have a firm understanding of how different people may make sense of different issues on social media, in order to develop informed strategic communication tailored to different segments of stakeholders (Zhao, Zhan & Wong, 2018, & Zhao, Zhan & Jie, 2018).

Social media has added complications to maintaining appropriate social narratives due to the abundance of user-created content online, which has contributed to polarisation within societies (Bessi, Coletto, Davidescu, Scala, Caldarelli, & Quattrociocchi 2015). At the same time, humanity is also attempting to combat challenges such as climate change and the Covid-19 pandemic, which requires the use of new technologies and approaches with which many people are unfamiliar and about which they can thus be easily misinformed.

I am not currently aware of any fast, practical solution to the problem of competing social narratives, but it is clearly vital for all stakeholders to consider this problem in any discourse regarding infrastructure. If we consider situations such as misinformation around wind turbines, we can see how easily one group of people can have their capabilities restricted by another group who are reacting out of an irrational fear, produced by social narratives. The New Zealand government holds an obligation to avoid such situations, due to their duty to ensure that individuals are able to participate as active citizens. It cannot be said that individuals are being provided with the capabilities to participate as active citizens in situations such as this, given that as a result of misinformation, they are unable to participate in the conservation of their society by powering their homes with renewable energy.

#### 4.7. Conclusion

As the elected leaders of a democratic state, the New Zealand government has been given and has accepted a duty of care for those who reside within their borders. Part of this duty of care is to ensure that individuals have the capabilities required to participate as active citizens. To actively participate in a capitalist society, individuals require an income. For most individuals, income is earned through the sale of their labour. The sale of labour comes with a number of potential power discrepancies between the employer and their employees, which must be either justified or regulated by those with the requisite power and an obligation to do so: the New Zealand government. During their determination of which powers an employer may justifiably hold over their employees, there should be an appropriate focus on the employer's duty of care toward these employees, which requires the employer to ensure that their employees' capability to participate as

active citizens is not unjustifiably obstructed. As discussed with regard to minimum wages, there are reasons to believe that some of the current employment regulations do allow for some employers to unjustifiably obstruct their employees' capability to participate as active citizens.

Living Wage Aotearoa New Zealand calculate a living wage as one that can provide the basic necessities of life, including the capabilities required for active citizenship. In order to maximise the capabilities available to individuals in New Zealand, the government must ensure access to the capabilities required to participate as an active citizen. This requires any minimum wage to enable such capabilities. Thus, the lowest acceptable minimum wage ought to be equal to the living wage at any given time. With 300,000 employees in New Zealand currently earning less than a living wage, the current minimum wage regulations are inadequate to enable the capabilities for all employees to participate as active citizens. It must be concluded that the functioning constituent of *adequate minimum wage rates* is not achievable for a large number of employees. It is worthwhile to note that this particular functioning constituent is unique, in that it may also directly affect the individual's ability to access a wide range of other capabilities within a capitalist society, and for this reason ought to be corrected.

As the role of the government in employment markets is not simply to regulate employers, I also considered whether the current unemployment assistance in New Zealand is adequate to afford those who find themselves unemployed the ability to participate as active citizens. In this regard, the current Job Seeker benefit provided by Work and Income New Zealand fails to enable active citizenship by a larger margin than the minimum wage does. This has significant consequences for employees who are considering a change in employment with the aim of finding more *meaningful* employment. In particular, it may provide an incentive for individuals to remain in unsatisfactory employment, through fear of losing their capability to afford the basic cost of living for themselves and their family.

Finally, I briefly discussed the importance of the government's role in providing adequate infrastructure and maintaining an inclusive social narrative. These two functioning constituents are closely linked to each other due to the scale of infrastructure projects and the narratives which are created around them. Adequate infrastructure is required to support the capabilities of individuals. However, the prevalence of user-created content on social media platforms allows for multiple competing narratives to occur around a single subject, even if some—or perhaps all—of them are inaccurate.

As stated earlier, I am currently undecided as to how these narratives should be regulated, and a proposal for such regulation falls outside of the scope of this chapter. What does seem clear, however, is that maintaining an inclusive social narrative should fall to the domain of those who hold a duty of care toward citizens, and as such must fall under the purview of government regulation. The capabilities of some individuals may be obstructed by the misinformation of others, and for this reason, research is needed into how these obstructions can be mitigated. Until such time that this is no longer a problem for the creation and maintenance of infrastructure projects, it cannot be said that the functioning constituents of *adequate infrastructure* and *social narrative* have been achieved by those who require them.

Lastly, I would reiterate that my intention in this chapter has not been to provide a complete list of the potential functioning constituents required to achieve the sub-functioning *receive*

*adequate government intervention*. Instead, I have aimed to address a group of functioning constituents that I take to be highly relevant within the New Zealand context. The functioning constituents in this group which many individuals in New Zealand are unable to achieve are financial in nature. In a capitalist society, those who lack sufficient income to adequately support the costs of living are also unable to participate as active citizens, and this is unacceptable. For this reason, I must conclude that the sub-functioning *receive adequate government intervention* is currently unachievable for many of those who wish to secure freedom of meaningful employment in New Zealand.

## Chapter Five

### Conclusion

#### 5.0. Refresher

The purpose of this thesis has been to develop a framework that will allow us to examine if a sufficient number of individuals have the capabilities that are required to meaningfully exercise their right to freedom of employment in New Zealand. This topic is worthy of extended investigation due to the common attitude among both employers and employees in New Zealand that if an individual is unhappy with their current employment, they should *just find a new job*. In a country where freedom of employment is seen as a basic human right, it would initially seem that this attitude must be reasonable. However, I have shown that utilising one's freedom of employment to find meaningful employment, which is free from the undesirable aspects of one's current employment, may not be quite as simple as it seems. There are a number of capabilities that are associated with this pursuit, some of them necessary, while others may be more flexible depending on the individual. In order to assess whether individuals have the capabilities required for meaningful access to their freedom of employment, I used the *capabilities approach* developed by Sen (1979) and combined it with a simple hierarchical chart (Figure 9).

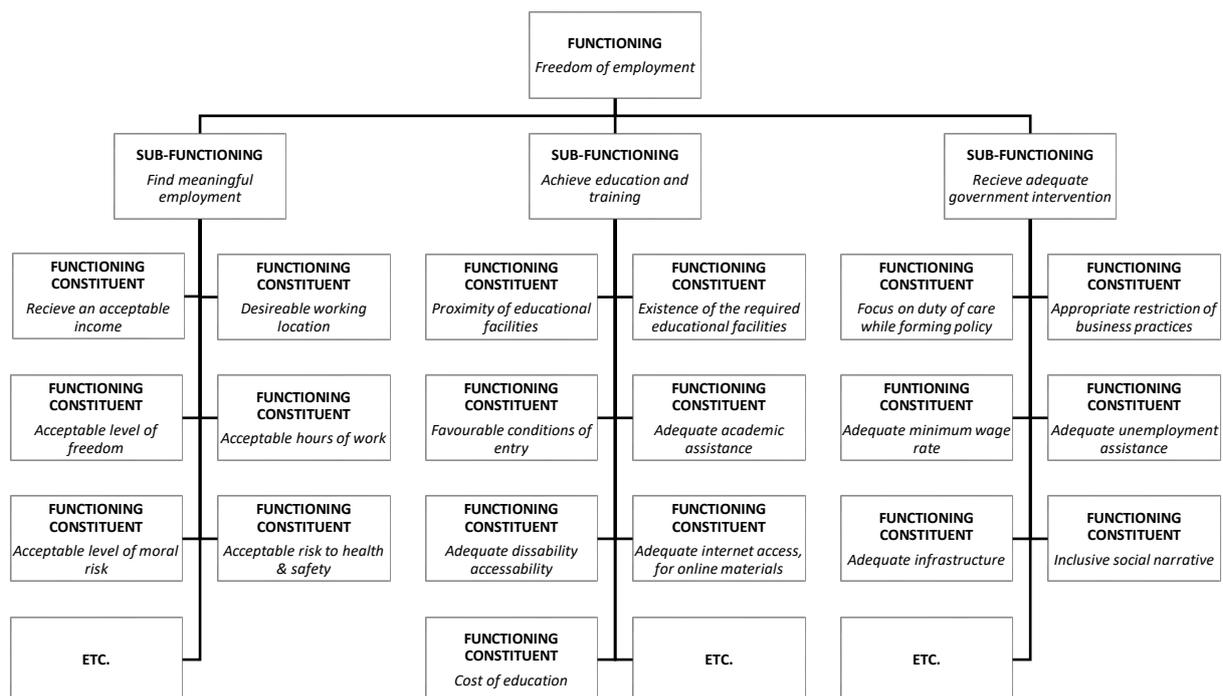


Figure 9 (Original, 2021)

I developed this chart by first identifying which types of capabilities are required by all individuals who will go on to achieve freedom of employment in a meaningful way and placing them directly under the main function we wish to assess. These capabilities were categorised as *sub-functionings*. I propose that there are three sub-functionings that are required by any meaningfully

active participant in freedom of employment: to find meaningful employment, to achieve education and training, and to receive adequate government intervention. The ability of the individual to achieve each of these capabilities is dependent on the availability of other capabilities, which I have called *functioning constituents*. Functioning constituents differ from sub-functionings as not all functioning constituents are required by all individuals who will achieve the relevant sub-functioning; only a sufficient number are required by each person. The number and type of functioning constituents required to achieve a given sub-functioning may vary, depending on the individual's requirements for the achievement of the sub-functioning. This framework allows us to easily assess how and where an individual or group of individuals may fall short of being able to achieve meaningful access to their freedom of employment. In chapters two through four respectively, I used this framework to assess each of the sub-functionings. The functioning constituents that I have chosen for each of the sub-functionings are those which I take to be most relevant to most individuals in the contemporary New Zealand context. While many individuals in New Zealand may not relate to some, or even all of the problems associated with access to the functioning constituents discussed, there are a considerable number of people who do relate, and who do not currently have access to one or more of the sub-functionings that are required to achieve meaningful freedom of employment. In the remaining parts of this conclusion, I will summarise my findings concerning the individual's capability to simply *find a new job* if they are unhappy in their current employment.

### 5.1. Sub-functioning -- Find meaningful employment

The first sub-functioning, which was addressed in chapter two, was *find meaningful employment*. For most people living in capitalist societies such as New Zealand, employment takes up a large portion of their time and plays a considerable role in their capability to afford the basic costs of living. It is hard for most individuals to live a meaningful life if they have no time available to them outside of work, if they are failing to meet the basic costs of living, or both. For this reason, I chose to focus mainly on functioning constituents relating to time and income, or ones with the ability to affect an individual's time and income, such as risk to health and safety. The functioning constituents chosen are shown in Figure 10 below:

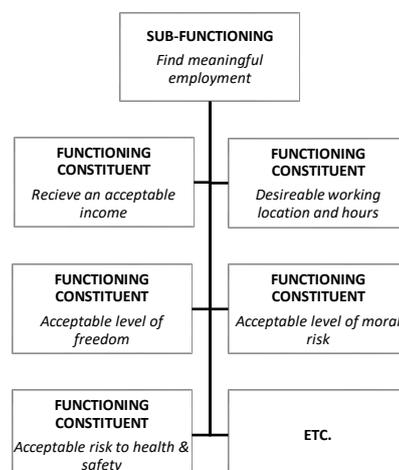


Figure 10 (Original, 2021)

The first functioning constituent in the chart above is to *receive an acceptable income*. In [2.3] I argued that, in order for any employment to be meaningful to the individual, it must provide the individual with the capabilities to afford at least the basic costs associated with living as an active citizen. With a pool of employees totalling around 2.2m, I showed that just over 300,000, or 13.6% of employees in New Zealand are earning less than a living wage, and thus do not have the functioning constituent of receiving an acceptable income if their only income is from their employer.

The next functioning constituent to be assessed was *desirable working location and hours*, which I discussed in [2.4]. The location in which an individual is employed and the hours that they are expected to work can have a substantial effect on their outgoings and their ability to have free time available. Those who are required to travel for work are often not compensated for the additional time lost in their pursuit of an income, and necessarily have less free time available to them each day than those who do not need to commute. Here, I was able to run through a few possible scenarios which may affect the outcome of whether the requirement to commute is acceptable or not, but due to the individuality of each commuter's situation, I am not able to obtain any outcome from this assessment in the current New Zealand context overall. With this said, I do think it would be worth following up with a survey to find out how many commuting employees wish they were employed closer to home, as this information would provide the missing link here. The following three functioning constituents—acceptable level of freedom, acceptable level of moral risk, and acceptable level of risk to health and safety—all have the ability to interact with the first two functioning constituents discussed.

To a certain degree, their employer decides which personal freedoms an individual is able to access in the workplace. If an employee fails to observe the rules of their workplace, they may find themselves being dismissed by their employer. If an individual's ability to afford the costs of living is tied to their employment, then this provides incentive for the employee to observe rules that they may otherwise find disagreeable. This is the same for the level of personal and moral risk an employee may be willing to take on, where they may have otherwise objected. For this reason, I have to conclude that for at least 13.6% of employees, our current employment structure fails to allow access to the necessary sub-functioning—to find meaningful employment. I also showed that even for those individuals who are currently earning an adequate income, the risk of becoming one of the 13.6% or worse may still provide adequate incentive for employees to remain in undesirable working conditions. The reasons for these failures are weighted very heavily on the individual's ability to afford the basic costs of living, which Living Wage Aotearoa New Zealand have calculated as being \$2.75 per hour higher than the current minimum wage. As such, to bring balance to this power discrepancy, we must include an aspect of government intervention—or more precisely, in light of my arguments in [4.4], an *adequate minimum wage*.

In chapter four, I argued that the New Zealand government has both the power and an obligation to safeguard the capabilities that individuals residing in New Zealand require to participate as active citizens. The ability to participate as an active citizen requires that individuals have the capabilities to afford the basic cost of living a meaningful life—to earn a living wage. For at least 13.6% of employees, the government is currently failing to fulfil its obligation to provide these capabilities. I argue that the New Zealand government ought to fulfil its obligation to provide the capabilities required to participate as an active citizen by increasing the minimum wage to be in line with the living wage at any point in time. In doing so, the functioning constituent to *receive an acceptable income* would no longer be an obstruction for any individual seeking meaningful employment in New Zealand. This also frees up the functioning constituents acceptable level of freedom, acceptable level of moral risk, and acceptable level of risk to health and safety to be available capabilities for more individuals.

The risk of unemployment still remains an active consideration for the above functioning constituents. However, the government's obligation to ensure the capabilities to participate as an active citizen does not extend solely to employees, it extends to everybody who is legally under the care of the New Zealand government. This means that any unemployment assistance should also allow individual recipients the capabilities for active citizenship—any less would be a failure of government to fulfil its obligations. If employees knew that their basic costs of living would be covered even should they find themselves unemployed, this should equalise the power discrepancies between employers and employees that are causing so many employees to remain in unsatisfactory employment. My recommendation, if we care about individuals' ability to find meaningful employment and participate as active citizens, is to increase both the minimum wage and unemployment assistance to match the living wage at any given time. In this way, as many individuals as possible will be free to exercise their right to freedom of employment in a meaningful way, without risk to their ability to afford the basic costs of living. At the same time, the New Zealand government would be able to remedy one area where they are currently failing to fulfil their obligation: to ensure access to the capabilities required for participation as an active citizen to all who reside in New Zealand, which includes the ability to afford the basic costs of living.

## 5.2. Sub-functioning -- Education, training, & abilities

The next sub-functioning that I examined was that of *education, training and abilities*. In [3.1], I showed how the capabilities approach, in relation to education, takes the focus of education away from being a purely financial investment for the future. The capabilities approach does this by viewing education as a tool which individuals may use to expand their capabilities. Due to different types of employment requiring individuals to possess different abilities, it is paramount to achieving meaningful freedom of employment that individuals are able to expand their skills, knowledge, and abilities in order to maximise their potential capability set. By doing so, individuals are provided with options for which type of life they wish to live, including what kind of employment they wish to pursue. Once again, I formed a list of functioning constituents which may be required by those who will go on to achieve this sub-functioning, as shown in Figure 11:

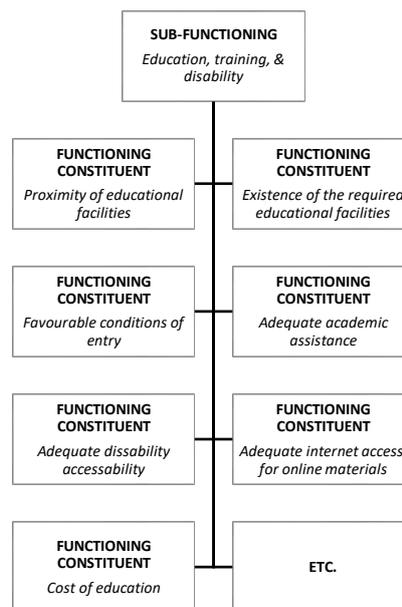


Figure 11 (original, 2021)

With regard to the first two functioning constituents, *proximity of educational facilities* and *existence of the required educational facilities*, New Zealand was found to have eight universities, 54 institutes of technology or polytechnics, and 124 private training institutions. We also have apprenticeship programs in trades such as building, plumbing, haircare, beauty, etc. The number of universities in New Zealand was also found to be comparable per capita with that of Australia. While we do have a reasonable number of educational facilities available in New Zealand, there are some regions, such as Northland, Gisborne, Bay of Plenty, etc. where individuals may find it more difficult to receive the education of their choice, due to a lack of sufficient educational facilities within those regions. Individuals who reside in these regions may benefit from the increase in online learning that has occurred over the past two years. However, learning of this sort may not be suitable for everyone, and some may miss out on their preferred option for education. Despite these setbacks, it would be unfair to conclude that there is a lack of educational facilities in New Zealand. With so many educational facilities to choose from, the ability to commute or move, and the prevalence of online learning, I conclude that we do have an adequate number of educational facilities located within access for an acceptable number of people.

In section [3.5], I argued for the existence of three main stakeholders in regard to the conditions of contracts into which educational facilities enter with individuals. The first two stakeholders are the educational facility and the individual, and the third is the community. Each of these stakeholders expects something from the others, and it is only when all parties' requirements are satisfied that the conditions of entering education can be regarded as favourable. I showed that in order for an individual to achieve the functioning constituent of *favourable conditions of entry*, they must not be unjustifiably restricted from accessing their chosen education type and facility. It is equally the case that an individual must not be granted access to such education where their attendance may pose a greater than acceptable risk to those around them. I discussed how educational facilities are responsible for the wellbeing of their staff and students, so it is reasonable for them to have some expectations regarding those whom they agree to educate. The community

may also reasonably hold some expectations toward those who are receiving or have received a qualification. These expectations must be accepted by the individual if the conditions of entry are to be favourable. I could find no evidence to suggest that New Zealand is failing in this regard, and accordingly, I find the functioning constituent of favourable conditions of entry to be achievable for most individuals in New Zealand.

I also found a favourable outcome in regard to the next functioning constituent—*adequate disability support*. While this functioning constituent is not required by the majority, for those that do require disability assistance, it could make or break their ability to achieve the sub-functioning. I found that with the disabled, working age demographic making up approximately 6.4% of the New Zealand population, the same demographic currently represents 7.6% of tertiary students. This proves that the functioning constituent of adequate disability support must be currently achievable for those who require it.

The last functioning constituent that I discussed in relation to education, training, and abilities was in [3.7] and relates to the affordability of obtaining education and training in New Zealand. Being able to afford education and training is necessary for individuals to have access to the means of increasing their capabilities. In New Zealand, we have a competitive market-based education policy. However, as discussed in [5.1] above, we do not currently have a *competitive* market-based minimum wage or benefit system. Nor is our student allowance scheme any closer to enabling individuals to afford the basic costs of living. To make matters worse, students are often left with loans worth tens of thousands which they must start to repay as soon as they are earning \$20,020.00 per year or more, which is well below the amount required to afford the basic costs of living. This means that with the exception of those who are able to work full time and who earn above a living wage, while studying, it is not possible to both obtain an education and afford the basic costs of living for most people. For the 13.6% of employees who currently earn below living wage in New Zealand, the capabilities that they require to improve their situation are likely too expensive. For this reason, the functioning constituent of affordability of education cannot be said to be achievable for a sufficient number of people in New Zealand.

I would argue that a correction to the current government intervention may help to improve access to education for a large number of individuals. The problem here is in the current repayment earnings threshold of \$20,020.00, after which individuals must begin to repay their student loans and allowances. As discussed in [5.1], if the current government regulation requires individuals to make repayments on their loans when they are not yet earning enough to cover the basic costs of living, this constitutes a failure on the part of the government to ensure that the capabilities to participate as an active citizen are available to everyone. I would argue that the obvious course of correction here would be to raise the repayment threshold to be in line with the living wage at any given time. This ensures that individuals are able to obtain an education without the burden of making loan repayments which they cannot afford, opening up the capability to obtain the sub-function-- to *achieve education and training* to everyone who wishes to achieve the function of meaningful freedom of employment.

### 5.3. Function - Meaningful freedom of employment

Individuals' access to the function of meaningful freedom of employment is complicated. My intention here has been to show that by breaking down the capabilities required to obtain meaningful freedom of employment into smaller packets of sub-functionings and functioning constituents, we may gain more insight into the obstacles faced by those seeking meaningful employment. It is my hope that at least some of the findings from this research may help to inform policy improvements which may aid individuals in their attempt to do so.

While it is not the case that all functioning constituents must be achievable by everyone, I have shown that there are a significant number of functioning constituents that are currently unachievable for many. Of most concern, I think, is the number of functioning constituents that are being restricted due to individuals' inability to afford the basic costs of living. In order to improve the capabilities of the people of New Zealand, I propose that there need to be increases to the minimum wage, unemployment assistance, student allowance, and the student loan repayment threshold to bring them in line with the living wage. These increases will empower individuals to set bigger goals for themselves, take more risks, learn more, and participate as active members of society. How we got here might be complicated, yet the justification is simple: the New Zealand government holds an obligation to ensure the capabilities for participation in active citizenship, and this includes the ability to afford the basic costs of living.

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