

Fundamental elements in examining a child's right to education: A study of home education research and regulation in Australia

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Abstract

Home education provides valuable educational and developmental opportunities for children. An examination of Australia's research indicates many best educational practices, including more informed mediation, contextualised learning, and opportunities to exercise autonomy. Key features include learning embedded in communities and program modification in response to students' needs. Current state and territory legal requirements are examined within the context of this research and Australia's obligations to international human rights treaties. All jurisdictions accept home education as one way to meet compulsory education requirements. The extent to which respective laws then reflect understanding of home education research and practice varies. Most jurisdictions allow for a variety of educational approaches. Some oversight regulation could however be modified to reflect a better understanding of home education. Consultation with home educators and reference to research would assist the development of more uniform legislation and policy across Australia, and enable better regulatory practice.

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Introduction

Home education is a legally accepted pathway that satisfies compulsory education requirements in all states and territories of Australia. This accords with Australia's being a signatory to international documents that recognize education as a human right but allow parents to choose the kind of education that best suits their child(ren) and family circumstances. This paper examines Australian research on home education in conjunction with the respective state and territory regulation. A review of research into Australian home education reveals a number of common themes that highlight what home education is and means to those who practice it. An examination of regulation of home education in Australia subsequently reveals that some jurisdictions demonstrate a better understanding of home education than others. As a consequence home education, whilst legal in all states, is facilitated to greater or lesser extents. It is suggested that a more uniform approach to regulation, informed by the research on home education in Australia and consultation with Australian home educators is needed. This would enable all jurisdictions to protect a child's right to education properly. By facilitating educational choices and understanding the value and success home education in Australia holds, the best educational outcomes for home educated children will continue to be achieved.

Australian Research on Home Education

Australian research into home education has grown since 1978 when a young teacher attempted several forms of alternative educational approaches as he tried to establish real life learning outcomes for students (Ennis, 1978). The first Australian research described home education from the perspectives of natural and 'unschooled' learning approaches (Krivanek, 1985, and Lampe, 1988) and was followed later by research of home education as used by religious families (Hunter, 1989, 1990, 1991, 1994).

There has been a growing body of Australian research on home education since the 1990s. This includes research by parliamentary reviews and government departments (Carrick, 1989, Education Queensland, 2003, Jacobs, Barratt-Peacock, Carins, Holderness-Roddam, Home & Shipway, 1991, Jeffrey & Giskes, 2004, New South Wales Office of the Board of Studies [OBS], 2000, 2004), postdoctoral (Thomas, 1998), doctoral (Barratt-Peacock, 1997, Jackson, 2009, and Reilly, 2007) studies, and academic research papers (Broadhurst, 1999, Carins, 1997, Clery, 1998, Hunter, 1989, 1990, 1994, Jackson, 2007, 2008, Jeffrey & Giskes, 2004, Reilly, Chapman & O'Donoghue, 2002, and Reilly, 2004).

Whilst the population of home educators in Australia cannot be known with certainty because some home educating families do not engage with registration processes, (Harding, 2006, Jackson, 2009, Jacobs et. al., 1991, and Reilly, 2007), such research identifies general characteristics of home educating families and their practices. These characteristics include

demographic information, parental reasons for choosing home education, the practice and experience of home education, student views and experiences, and experiences of families with special needs students.

Home educating families are found in city, suburban and rural locations throughout Australia (Barratt-Peacock, 1997, Education Queensland, 2003, Jackson, 2009, and OBOS, 2004). These families hold a wide variety of philosophical, political, secular and non-secular views reflecting those held by the broader community. They come from a wide range of educational backgrounds and belong to a wide range of employment categories and income levels. Mothers usually take the primary responsibility for educational opportunities and programs, although some fathers take the primary role. Home educating families regularly choose to live on one income. (Barratt-Peacock, 1997, Education Queensland, 2003, Harding, 1997, 2003b, 2006, Harp, 1998, Honeybone, 2000, Jackson, 2009, Jacob et. al., 1991, Jeffrey & Giskes, 2003, Lampe, 1988, OBS, 2004, Patrick, 1999, Simich, 1998, and Thomas, 1998). Parents both initiate education of children at home and move children out of mainstream institutions to home education (Harding, 1997, Jackson, 2009, and Thomas, 1998).

Australian research indicates many and varied reasons for families choosing home education. These typically fall into two categories – real or perceived negatives associated with education found in mainstream institutions and real or perceived benefits of educating children at home (Patrick, 1999). Examples of the real and perceived negative aspects of traditional schools include lower academic achievement, learning difficulties not catered for (especially for students with special needs), curriculum not meeting the needs and/or interests of students, social problems such as bullying, negative peer pressure and low self-worth, large class sizes, values acceptable to parents not being upheld by traditional schools, and their own children's unhappiness with traditional schooling. Positive benefits of home education are reported to include academic benefits, broader curriculum, flexible learning to cater for individual needs, higher self esteem, one-on-one/low teacher to student ratios, holistic learning opportunities connected to the 'real' world, broader social experiences and growth because of the ability to mix with wide age ranges of people, values teaching and stronger family relationships (Barratt-Peacock, 1997, Education Queensland, 2003, Harding, 1997, Hunter, 1994, Jackson, 2009, Jeffrey & Giskes, 2004, Krivanek, 1985, Maeder, 1995, New South Wales Board of Studies, 2004, Reilly, Chapman & O'Donoghue, 2002, Reilly, 2007, and Thomas, 1997). Some studies mention family cohesiveness, parenting roles, religious beliefs, and academic success as reasons for home educating children. However, the over-arching reason given for home educating children in Australia is that parents believe it is in the best interests of one, some or all of their children to be educated at home (Jackson, 2009, OBS, 2004, Reilly, 2007, and

Thomas, 1998). Distance from mainstream institutions is not usually the primary reason for the choice to home educate.

While there have been studies of academic ability in home educated students overseas (Rothermel, 2004, and Rudner, 1999), there has not been a significant study specifically conducted into this aspect of home education in Australia. However, a number of studies have included comment about academic achievements of home educated students (Harding, 2003a, 2006, Harp, 1998, Jackson, 2009, Lampe, 1988, McColl, 2005, Simich, 1998, and Thomas, 1998). Students are entering tertiary institutions with ease, small groups have used standardized tests and scored well and student entry into mainstream institutions at all levels is occurring with apparent ease. Students who do have problems academically usually have identifiable learning difficulties (Jackson, 2009). There are a number of sound educational reasons why these students are achieving at home (Jackson, 2008). Students have access to one-on-one learning opportunities, engage in significant amounts of family conversation (Barratt-Peacock, 1997, Brosnan, 1991, and Thomas, 1998), have parents and community members as mentors (Barratt-Peacock, 1997, 2003, and Jackson, 2008), have time and space to pursue interests and are able to exercise significant autonomy over their learning (Jackson, 2009).

Parents, either as solo families or through networks of home educators, typically access a wide range of community resources such as libraries, sporting events, tutors, and community organizations and facilities to ensure a wide range of learning opportunities. Organized home educator networks also provide regular opportunities for both learning and social connection. Students report they have different and valued social opportunities both with same ages peers and with those younger and older than themselves. Home educated parents and children contrast these vertically aged social opportunities with the limitations of same aged horizontal peer socialization found in mainstream institutions (Honeybone, 2000, Jackson, 2009, and Thomas, 1998).

A number of studies examine the practice of home education (Barratt-Peacock, 1997, Education Queensland, 2003, Harding, 2006, Jackson, 2009, Jacobs, 1991, OBS, 2004, Simich, 1998, Reilly, 2004, 2007, and Thomas, 1998). These studies consistently show that families choose from a range of approaches ranging from structured classroom type methods, unit studies which use themes children are interested in to teach a variety of subjects, 'natural' learning approaches based on student needs and interests, and/or an eclectic approach which combines more structured approaches for some subjects and natural learning approaches for others. Although many parents use a more structured and school like approach to begin their programs, most move to less structured approaches or modify their programs in keeping with the educational needs of their children (OBS, 2004, Reilly, 2004, Thomas, 1998).

Studies exploring student views of home education report students value their home education experiences for a number of reasons (Broadhurst, 1999, Brosnan, 1991, Carins, 2002, Clery, 1998, Honeybone, 2000, Jackson, 2007, 2009, Lampe, 1988, and McColl, 2005). Students highly value autonomy as experienced in their ability to choose when they learn, what they learn and where they learn, as well as making or contributing to the decision about whether to enter mainstream institutions (Brosnan, 1991, Clery, 1998, and Jackson, 2009). That learning environments are personally selected, and quiet spaces available where students can focus, is also reported positively. Satisfaction with learning taking place in a warm and supportive family environment is explicitly mentioned. Students also report the value of learning experiences that allow learning by 'doing' or experientially, through reading, research and/or demonstration, and one-on-one mentoring. These experiences provide the basis for home educated students developing into informed and engaged learners with relevant life skills grounded in community in different but worthwhile ways to their schooled peers. High self-esteem is also consistently observed in home educated children who accept themselves at home without reference to others (Jackson, 2009). Significantly they report that their positive self-esteem is challenged when they enter or return to mainstream institutions.

Two recent doctoral studies (Jackson, 2009, and Reilly, 2007) highlight the educational and social differences between mainstream schooling and home education as experienced in Australia. These studies also examine the reasons home education works effectively to educate and socialize students albeit differently to the education and social opportunities available in mainstream institutions. This includes consideration of why the home education option is important, why there is a need for informed and respectful dialogue and connection between home education and mainstream professionals, and why there is a need for the development of informed legislation.

Reilly's (2007) research examines the experiences of nine city families who chose home education for their intellectually disabled students. In that study, parents report their children learn more effectively and have more positive social opportunities at home than previously experienced in mainstream institutions. Learning opportunities are effective because, unlike the educational experiences provided in mainstream institutions, students have access to continual one-on-one teaching, progress consistently and are naturally monitored through ongoing interactions between parents and children. This allows for progressive modification of curriculum to meet specific immediate and long term learning needs of each child. Daily incidental and conversational learning opportunities in real life contexts which are relevant to the children's learning needs and future ability to adjust into the adult world are also found. Negative social experiences in mainstream institutions, which educational professionals have not been

able to eliminate, contribute to family decisions to remove children from mainstream institutions. At home, parents express relief and gratitude that their children are able to grow in the different and positive social environment provided by their practice of home education. Parents form connections with home education networks and various community personnel and resources. A few find collaborative and part-time connection with particular mainstream educational institutions beneficial. Educators and Department of Education officials, who, after observing the progress of these students, comment that mainstream institutions are inadequately equipped to provide the positive educational and social opportunities they witness being experienced by these children while home educated. Reilly (2007) concludes that educators, departmental officials and policy makers need to recognize, understand and support home education because of its positive contribution to the education, welfare and life outcomes of special needs children. These positive outcomes would flow through to society as they are able to adjust more effectively and responsibly to community.

In Jackson's (2009) study, three participant groups, home educating parents, students and educational professionals, evaluate their views and experiences of home educated students who make transitions into and out of mainstream institutions. The results from all three groups of participants indicate that most home educated students are able to move easily from home education to mainstream institutions. Educators describe average to above average academic abilities and social skills of most students. They identify recognizable learning difficulties which account for weak academic abilities while poor social experiences in schools are explained to be the result of family itinerancy or dysfunction rather than the practice of home education. Students all claim they learn more effectively at home than at school, even when they enjoy attending school, however, a few students identify areas where their home education experience or interaction with mainstream institutions could be improved. This includes two students who feel isolated due to family location in a rural area; students in two large families who report their parents sometimes have limited time to support their learning and this is exacerbated by externally provided curriculum not as responsive to their needs as they would like; and one student who feels his home curriculum had been controlled by a parent who subsequently acknowledged that more flexibility and student input is desirable. A few students describe social situations they find difficult when making the transition into mainstream institutions. Others, with giftedness or above average ability, find their abilities challenge the status quo of established class achievers which can lead to bullying, friction and misunderstanding. Values, established in families through discussion and mediation, are also sometimes challenged by mainstream peers who have not experienced such mediated learning of values.

In Jackson's study (2009), most professional educators acknowledge there are limitations evident in mainstream education contributing to poor

learning outcomes for some students, particularly those with different to average learning abilities. These limitations include set curriculum unresponsive to individual student needs and interests, limited ability to work effectively with individual learning styles, limited opportunity to cater to different levels of ability, and constraints set by specific time frames set for expected learning outcomes. Parents and students, on the other hand, speak highly of the relevant, flexible and personally mediated learning opportunities experienced at home catering for individual needs and interests. The positive outcomes home education provides to students, is expected to flow through and contribute to society in positive ways.

In both of these studies, a few mothers experienced stress and fatigue usually associated with parents using structured curriculum approaches. Jackson (2009) and Reilly (2007) conclude that there is a need for educational professionals and policy makers to have a greater understanding of what home education is and what it offers to students and to society in order to facilitate the best outcomes for students and families.

Legal Responsibility For and Regulation of Home Education in Australia

Having considered the research on home education in Australia, it is possible to consider where Australia lies with respect to legal responsibility and regulation of home education. The extent to which it reflects understanding of Australian home education is also examined.

Australia as a Party to the Universal Declaration on Human Rights and the Convention on the Rights of the Child

That every child has a right to an education is recognised in international instruments such as the United Nations Universal Declaration on Human Rights (UDHR) (1948) and the Convention on the Rights of the Child (CROC) (1990) to which Australia is a signatory. The UDHR provides that '[e]ducation shall be free, at least in the elementary and fundamental stages' [and] that 'elementary education shall be compulsory...'; and that 'parents have a prior right to choose the kind of education that shall be given their children' (Article 26(3)). Similarly, CROC provides 'states parties recognize the right of the child to education, and with a view to achieving this right ...shall make primary education compulsory and available free to all; and encourage the development of different forms of secondary education...' CROC also provides that 'states parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.' (CROC, Article 2(2)). This supports the argument that a child should not be discriminated against or punished should their parents choose to undertake the responsibility for educating their child(ren) themselves because of their beliefs.

These documents therefore require that education should be compulsory and place responsibility for such education in the hands of both parents and the state.

Neither the UNDHR nor CROC dictate what must be taught, however they do emphasise certain values that compulsory education should reflect. They both provide that education be 'directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms' (UNDHR Article 26(2), CROC (Article 29(1)(b)), and that 'it shall promote understanding, tolerance and friendship among all nations, racial or religious groups...' (UNDHR Article 26(2), CROC (Article 29(1)(d)). Further CROC emphasises education should include 'the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own' (Article 29(1)(c)); and 'the development of respect for the natural environment' (Article 29(1)(e)).

The extent to which Australia has adopted such principles is now discussed.

The Law in Australia

Australia is a federation, under which the Commonwealth, state and territory governments each have responsibility for governing different matters (Australian Constitution Act, 1900). Education is a matter that falls to the individual states and territories and is therefore regulated separately in each jurisdiction. Australia is a party to both the UNHDR and CROC.

In Australia all states and territories have legislation requiring compulsory education from the age of six to seventeen years (Education Act, 2004 (ACT), s10(2); Education and Training Reform Act 2006 (Vic), s2.1.1; Education Act 1972 (SA), s75; School Education Act 1999 (WA), s9; Northern Territory of Australia Education Act 2010 (NT), s21; Education (General Provisions) Act 2006 (Qld), s9; Education Act 1990 (NSW), s21B, Education Amendment Act 2009 (NSW); Education Act 1994 (Tas), s4). All jurisdictions recognise home education as a legal pathway to meet compulsory education requirements, subject to parents registering their child for home education (Education Act 2004 (ACT), s10(2); Education and Training Reform Act 2006 (Vic), s2.1.1; School Education Act 1999 (WA), s10(b), s48; Northern Territory of Australia Education Act 2010 (NT), s21(1)(b); Education (General Provisions) Act 2006 (Qld), Chapter 9 Part 5; Education Act 1990 (NSW), ss70-74; Education Act 1994 (Tas), s17) or gaining an exemption from the compulsory attendance requirements (Education Act, 1972 (SA), s76). This reflects the principles discussed above in relation to the UNHRD and CROC in that education is compulsory and that parents may choose what kind of education their child will undertake (both of which are enshrined by the state). The extent to which the laws

operate and/or the state plays a role thereafter varies amongst jurisdictions, as does a reflected understanding of what home education is and how it may be best facilitated. It is to discussion of the respective Australian jurisdictions that this paper now turns.

Only three jurisdictions define home education by statute. The focus is upon location being 'education conducted by one or both of the child's parents from a home base' (ACT) (Education Act 2004 (ACT), s129); 'schooling in the child's home, other than distance education provided by a government or registered non-government school in which the child is enrolled' (NSW) (Education Act 1990 (NSW), s3); and 'the education of the child provided by one or both of the child's parents, or a registered teacher, primarily at the child's usual place of residence' (Queensland) (Education (General Provisions) Act 2006 (Qld), s205). If we compare these definitions against the discussion of what home education is above, we see that they lack recognition that home education is a practical and successful alternative to school based education which embraces learning in the whole community (Paine, 2010). Such jurisdictions need therefore to explicitly extend their definition of home education into the broader community, and not restrict it to a home base nor suggest that it is school in the home. Secondly, these definitions shed no light on (or rather do not indicate an understanding of) what home education involves.

In the Northern Territory (NT), the Department of Education and Training (DET) states it 'recognises that the terms "home education" and "home schooling" are often used interchangeably' (DET, NT 2010). They state they '[choose] to use the term home education in preference to home schooling in recognition of the point of view that home schooling implies a more structured activity and curriculum position akin to school, whereas home education occurs when parents choose to educate their children from a home base.' Interestingly, whilst appearing to make the recognition lacking in the three jurisdictions above, it is the NT that imposes the strictest curriculum requirements and oversight regimes in Australia. Conditions that require such things ranging from interviews with parent(s), the proposed teacher and child; inspection of the facilities and resources available for the child's education; and monitoring of the child's education by inspecting work portfolios annually and the condition of the facilities and resources as often as authorised representatives consider necessary, are imposed (DET, NT 2010). There are requirements to document start and finish times, hours per day and days per week dedicated to a subject, the resources available for the education of the child including the availability of text books, reference books, audio visual equipment, personal computer and how the curriculum relates to their Board of Studies courses. The NT DET also require that parents report 'if the child is to be educated on his or her own, the opportunities for social interaction with children of similar age' (Ibid, p.4). These requirements suggest a view that home education is akin

to school and should adopt school like approaches. They also do not accommodate the ways in which home education may meet the particular educational needs of individual children, or may involve ongoing and progressive modification of educational programs. The NT provisions do not reflect understanding or knowledge of the research discussed above.

The South Australian (SA) Department of Education and Children's Services (DECS) state that continued approval for exemption from home education is conditional upon an annual home visit with a Home Education Project Officer to review the education program (Ibid). It is the view in this state that 'home education choice is exercised with the full knowledge of parental responsibilities in relation to the provision of a suitable education program, resources, learning environment and opportunities for social interaction' (SA Department of Education and Community Services, 2010). Programs need to align with South Australian Curriculum Standards, Accountability (SACSA) Framework (Ibid). SACSA describes eight Learning Areas, five Essential Learning and seven Key Competencies (English; Mathematics; Science; Design and Technology; Studies of Society and Environment; the Arts; Health and Physical Education; LOTE) (Ibid). Programs of study must be planned in advance to align with SACSA; integrate the Essential Learning and Key Competencies into learning tasks; utilise a range of resources; have clearly identified learning outcomes; incorporate a variety of teaching, learning and assessment methodologies; and involve students in the planning of stimulating education programs and encourage student negotiation of learning' (Ibid). Whilst not precluding less structured educational approaches this might not accommodate approaches in which activities are child led and facilitated by the adults rather than planned in advance (Barratt-Peacock, 1997, Jackson, 2009, Krivanek, 1985, NSW OBS, 2003, Reilly, 2007, and Thomas, 1997). The South Australian stipulations also do not encourage or enable progressive modification of programs which would allow flexibility to meet a child's changing learning needs. In South Australia parents are required to report on 'opportunities for social interaction.' However, this does not deny home educated children receive adequate socialisation opportunities, it simply requires proof that such social opportunities occur.

In Western Australia, there is provision for evaluation of the child's educational program and progress to be made in the first three months of registration and then once a year thereafter (School Education Act, 1999 (WA), s51). Such evaluation is 'to take place at a time agreed with the home educator at the usual place where the child's educational program is undertaken or at a place agreed to by the home educator and the home education moderator' (School Education Act, 1999 (WA), s51). Whilst requiring home educators to implement the state's curriculum framework (which similar to SA covers the above eight key learning areas), WA does not stipulate the approach that must be taken when addressing these areas. The Western Australian Department of Education and Training home

education policy states 'Parents have a right to choose from a wide diversity of learning approaches in providing their children with home education in the compulsory years of schooling....' (Department of Education and Training, (WA) 2006, p.8). They also emphasise flexibility in the delivery and evaluation of home education.

Tasmania similarly provides for a 'monitoring visit' however recognises that the subsequent report made by their oversight body should recognise that 'home education legitimately encompasses a wide range of philosophies, curricula and methods, ranging from highly structured courses to more informal learning programs' (Tasmanian Home Education Advisory Council, 2010), There are no requirements to follow a particular curriculum.

New South Wales requires application for registration which may be granted for six months to two years (Education Act, 1990 (NSW), ss71-72). Home educators must re-apply at the end of this period. No home visit is required, however registration may be cancelled if the parent refuses to allow an authorised person to enter at a reasonable time, the premises where the child receives schooling or to inspect those premises or records required to be kept for the purposes of the Act (Ibid ss74). The Office of Board of Studies (OBS) requires documentation satisfying them that the curriculum requirements which again include the eight key learning areas named above have been met. However, the educational approach taken when covering these areas is not judged.

In Victoria paper application and yearly notification is required that demonstrate a commitment to provide regular and efficient instruction, substantially addressing eight key learning areas in a manner which is consistent with the democratic principles outlined in the Education and Training Reform Act (Education and Training Regulations, 2007 (Vic)). Review may occur where there is a concern that democratic principles and/or key learning areas are not being addressed. Victorian legislation prohibits Victorian Registration and Qualifications Authority personnel from visiting the residences of home schooling parents without their consent (Ibid, s5.8.4.1(b)). If such a visit is agreed to, the child being home schooled is not required to be present and an advocate for the parent may be present (Ibid).

Both the ACT and Queensland also require registration, and bi-annual/annual reports respectively on the child's educational progress and that show the child is receiving a 'high quality education' (Education Act 2004 (ACT), s132; Education (General Provisions) Act 2006 (Qld), s211). In Queensland, a 'high quality education' is defined as one that has regard to the age, ability, aptitude and development of the child concerned; promotes continuity of the learning experiences of the child concerned; is responsive to the changing needs of the child concerned; reflects and takes into account current understandings related to educational and other development of children; is responsive to the child's need for social development; is

supported by sufficient and suitable resources; and is conducted in an environment conducive to learning (Queensland Government, Education (General Provisions) Act 2006 Section 217(2) Approved Form CRH-IV3: Reporting for Continuing Registration for Home Education (2010)). There is nothing in the legislation, regulations, or policy in these jurisdictions that stipulate educational approach or curriculum criteria. There are also no provisions in the ACT or Queensland legislation that provide for home visits or inspections. In Queensland, parents must also show that the education a child is receiving is 'responsive to the child's need for social development' (Ibid). These jurisdictions, along with Victoria tend to reflect less of a 'policing' role and more of an oversight role than the other states (Education Training Reform Act 2006 (Vic), s2.1.5).

Some allowance for conscientious objection or exemption from these requirements exists based upon grounds of religion in NSW (Education Act 1990 (NSW), s75); the child's health; the child's education; the child's sense of racial, ethnic, religious or cultural identity; the child's development; whether the exemption would benefit the child in the ACT (Education Act 2004 (ACT), s11H(1)); or by order or in a specific case in Victoria (Education Act 2004 (ACT), s11H(1), Education Training Reform Act 2006 (Vic), s2.1.5). Such objection or exemption however does not generally excuse families from having to demonstrate that they continue to meet the educational needs of their child(ren).

Conclusion

In Australia education is seen as a human right. The law in Australia plays an important role in protecting such a right. All jurisdictions provide for compulsory education. The responsibility for choosing where and how that education takes place then lies with parents (and their children). The law facilitates such choice by recognising home education as a legitimate way to meet compulsory education requirements.

Australian home education has a mixed and varied, but very positive face. An examination of research concerning demographics of home educating families in Australia shows they reflect all family types, in city, suburban and rural locations—with the exception that a parent or parents decide to take primary responsibility for their child(ren)'s education. Australian research on the reasons families choose home education show that such families view home education as offering a number of positives preferable to perceived or experienced negative aspects of institutionalised schooling. There is no single or primary reason that home education is chosen, but rather a number of reasons that lead families to believe this pathway is the best for their child(ren). Research on educational outcomes for home educated children shows good to above average academic performance, positive social adjustment, healthy self-concepts, and cohesive families relationships. It also indicates that home education has proven to be a good option for some families with children who have special needs

compared to mainstream schooling. Children who are home educated largely report great satisfaction with their educational and social experiences.

What is apparent however are the varying degrees to which Australian jurisdictions go beyond enshrining the right to education and their affect on parental autonomy to choose the kind of education their child(ren) will have. Monitoring regimes move from almost stifling to facilitative and enabling.

This paper has shown the Northern Territory is very strict, requiring extensive reporting and home inspections. It is also the jurisdiction that appears to understand approaches to home education the least, and to treat it with the most suspicion. Given the value to children of experiential learning and use of community resources, it seems nonsensical to fail to allow for approaches to home education that emphasise these things. The majority of jurisdictions however move further along a continuum. Whilst South Australia and Tasmania provide for home visits they both emphasise flexibility in delivery and evaluation of home education. Other Australian jurisdictions whilst requiring written reports only provide for home visits if there is agreement, or if there is a concern that a child's educational rights are not being met. Two states do not provide for home visits or inspections at all. Curriculum requirements in all but two of the jurisdictions require that home educated children cover eight key learning areas prescribed for all children of compulsory school age. In their emphasis on reporting and planning some jurisdictions do not easily accommodate natural learning/unschooling or progressive modification of programs, but they do not appear to be so prohibitive that such approaches could not be adopted. Others including Queensland, Victoria and Tasmania allow for a variety of educational approaches with varying levels of reporting required.

The law in Australia serves a useful purpose, in protecting rights and enabling freedoms – but there is room in some jurisdictions to improve the approach to regulation. The time is ripe. There are over two decades of research showing it to be a successful alternative to institutionalised schooling for some families. More uniform laws across Australia which reflect knowledge and consideration of such research in conjunction with consultation with home educating families could only serve to facilitate and enable better educational experiences for children.

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References

- Barratt-Peacock. (1997). *The Why and How of Australian Home Education*. Unpublished PhD, Bundoora, VIC: La Trobe University.
- Barratt-Peacock, J. (2003). Australian home education: a model. *Evaluation and Research in Education*, 17 (2), 101-111.
- Broadhurst, D. (1999). *Investigating young children's perceptions of home schooling*, from <http://www.aare.edu.au/99pap/bro99413.htm>
- Brosnan, P. (1991). *Child competencies and family processes in homeschool families*. Unpublished Med. Melbourne: University of Melbourne.
- Carins, K. (1997). *Home education in Tasmania*. 13th Biennial Forum of the Open and Distance Learning Association of Australia, Launceston.
- Carrick, J., & Committee of Review of N. S. W. Schools, (1989). *Report of the Committee of Review of New South Wales Schools*. (Government-reports). Sydney: Committee of Review of New South Wales Schools.
- Clery, E. (1998). Homeschooling: The meaning that the homeschooled child assigns to this experience. *Issues in Educational Research*, Vol. 8(No. 1), 1-13.
- Convention on the Rights of the Child (CROC), 1990.
- Department of Education and Training (Northern Territory) (2010), *Information Booklet for Parents Applying for Home Education 2010*, 2.
- Department of Education and Training (WA) (2006), *Home Education*, Policy Document, Perth, Western Australia.
- Education Act 2004 (ACT).
- Education Act 1990 (NSW).
- Education Amendment Act 2009 (NSW).
- Education Act 1972 (SA).
- Education Act 1994 (Tas).
- Education (General Provisions) Act 2006 (Qld).
- Education Training Reform Act 2006 (Vic).
- Education Queensland, Tabrett, L., McHugh, B., Department of Education, Queensland, & Legislative Assembly, Queensland, (2003). *Home Schooling Review* (Web site). Brisbane: Parliament of Queensland. <http://education.qld.gov.au/publication/production/reports/homeschooling.pdf>
- Harding, T. J. A. (1997). *Why Australian Christian Academy Families in Queensland Choose to Home School: Implications for Policy Development*. Unpublished MEd, Partial fulfillment, University of Technology, Brisbane.
- Harding, T. (2003a). A Comparison of the Academic Results of Students Monitored by the State, with the Academic Results of Students Not Monitored by the State. In *A submission for the Home Schooling Review* (pp. 6). Australian Christian Academy, Brisbane.
- Harding, T. J. A. (2003b). *A submission for the Home Schooling Review*. Brisbane: Australian Christian Academy.
- Harding, T. (2006). *A Study of Victorian Home Educator – Home School Law Reforms*. Paper presented at the Home Education Symposium and Parliamentary Presentation, Camberwell Civic Centre and Victorian Parliament, Melbourne. Brisbane: Australian Christian Academy.
- Harp, B. (1998). *Home Schooling: A Study of Reasons Why Some Central Queensland Parents Choose the Home Schooling Alternative for their children*. Unpublished Master of Education Studies, part fulfilment. Rockhampton: Central Queensland University.
- Honeybone, R. (2000). *A South Australian case study examining the home - schooling experiences of eight primary school aged children and their families*. Unpublished Thesis (B.Ed. (Hons.)). Adelaide: University of South Australia.

- Hunter, R. (1989). *Home, school and education*. Paper presented at the Education, equity and national interests: proceedings of the conference 1989 [of the] Australian and New Zealand Comparative and International Education Society, University College, the University of Melbourne.
- Hunter, R. (1990). Homeschooling. *Unicorn*, 16 (3), 194-196.
- Hunter, R. (1994). The home school phenomenon. *Unicorn*, 20 (3), 28-37.
- Jackson, G. (2007). Home education transitions with formal schooling: Student perspectives. *Issues in Educational Research*, 17(1), 62-84. <http://www.iier.org.au/iier.html>
- Jackson, G. (2008). Australian Home Education and Vygotskian Learning Theory. *Journal of Australian Research in Early Childhood Education*, 15(1), 39-48.
- Jackson, G. (2009). *'More than One Way to Learn': Home Educated Students' Transitions Between Home and School*. Unpublished PhD. Clayton, Victoria: Monash University. <http://arrow.monash.edu.au/hdl/1959.1/83110>
- Jacob, A., Barratt-Peacock, J., Carins, K., Holderness-Roddam, G., Home, A., & Shipway, K. (1991). *Home Education in Tasmania: Report of Ministerial Working Party October 1991*. Hobart: Government Printer.
- Jeffrey, D., Giskes, R., & Section, Queensland. Parliamentary Library. Research Publications and Resources Section (2004). *Home schooling*. Queensland Parliamentary Library, Research Publications and Resources Section. <http://www.parliament.qld.gov.au/view/publications/documents/research/ResearchBriefs/2004/200409.pdf>
- Krivanek, R. (1985). *Children Learn At Home: The experience of home education*. Melbourne: Alternative Education Resource Group.
- Lampe, S. (1988). *Home Education: A Survey of Practices and Attitudes*. Unpublished MEdSt, Partial Fulfillment. Clayton, Victoria: Monash University.
- Maeder, G. (1995). *Parents' reasons in the Hunter area for choosing a Montessori school, Steiner school or home schooling for the early schooling of their children*. Unpublished MEarlyChildEd. Newcastle NSW: University of Newcastle.
- McCull, A. (2005). *ACE Homeschooling: The Graduates Speak*. Unpublished Masters of Education, part fulfilment. Brisbane: Christian Heritage College.
- New South Wales Office of the Board of Studies (OBOS) (2000). *Home education study: report of findings* (Research reports). Sydney: Office of the Board of Studies.
- New South Wales Board of Studies. (2004). *Home education study report of findings*. Sydney: Office of the Board of Studies NSW.
- Northern Territory of Australia Education Act 2010 (NT).
- Paine, B. (No Date). Home Education Association Inc. Retrieved 14 January, 2010. <http://hea.asn.au/aboutus.asp>
- Patrick, K. (1999). *Enhancing community awareness of home - schooling as a viable educational option*. Unpublished In partial fulfillment of the requirements of Bachelor of Education (Primary)(Honours). Cooranbong, NSW: Avondale College.
- Reilly, L. (2004). *How Western Australian Parents Manage the Home Schooling of Their Children with Disabilities*. Australian Association for Research in Education Melbourne: University of Melbourne.
- Reilly, L. (2007). *Progressive modification: how parents deal with home schooling their children with intellectual disabilities*. Unpublished PhD, Crawley, WA: University of Western Australia.
- Reilly, L., Chapman, A., & O'Donoghue, T. (2002). Home schooling of children with disabilities. *Queensland Journal of Educational Research*, 18(1), 38-91.
- Rothermel, P. (2004). Home-education: Comparison of home-and school-educated children on PIPS baseline assessments. *Journal of Early Childhood Research*, 2(3), 273-299.
- Rudner, L. M. (1999). Scholastic Achievement and Demographic Characteristics of Home School Students in 1998. *Education Policy Archives*, 7(8), 1068-2341.
- School Education Act 1999 (WA).

- South Australian Department of Education and Community Services, Parents and Community: Condition of Approval, 2010. Retrieved 31 January 2010.
<http://www.decs.sa.gov.au/portal/community.asp?group=matters&id=HomeEd>
- Simich, M. (1998). *How parents who home school their children manage the process*. Unpublished Med. Nedlands WA: University-of-Western-Australia.
- Tasmanian Home Education Advisory Council, Registration Process and Monitoring. Retrieved 5 February 2010. <http://www.theac.org.au/?page=reg>
- Thomas, A. (1998). *Educating Children at Home*. London: Cassell.