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THE WHAT, WHYS AND WHEREFORES OF HOME EDUCATION AND ITS REGULATION IN AUSTRALIA

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This paper presents a unique summary of Australian research on home education, and an evaluation of current regulation in an Australian context. It begins with the recognition that home education is a legal alternative to school education in Australia. However it argues that legal definitions of home education do not properly reflect the practice of home education. This is illustrated by an examination of different educational approaches taken by home educators and research on the socialisation of home educated children in Australia. Research on who chooses home education, why people choose home education and the educational outcomes for home educated children is also discussed. Home educating families represent all family types, are found in rural, suburban and city locations, and choose home education for a variety of reasons. Research indicates that Australian home educated children have positive educational and social experiences and outcomes. The question of whether, and if so the extent to which, home education should be regulated by the state is examined. The authors argue that whilst regulation is acceptable to protect a child's right to education, a more consistent regulatory framework is needed across Australia. It is argued that such a framework should facilitate and encourage children who are being home educated and should be flexible enough to accommodate the variety of educational approaches taken to home education.

I INTRODUCTION

A Overview

This paper discusses home education as a legally accepted pathway for education in Australia. It examines what home education is, including a consideration of different approaches taken by home educators and the socialisation of home educated children. Australian research on who chooses home education, why people choose home education and the educational outcomes for home educated children is discussed. How home education is currently regulated across Australian jurisdictions is considered. The question of whether, and if so the extent to which, home education should be regulated by the state is explored. The paper argues that whilst regulation is acceptable to protect children's right to an education, a more consistent regulatory framework is needed across Australia. Such a framework should facilitate and encourage children who are being home educated, rather than police home educating families.

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B Scope

The authors recognise there exists a body of international research that discusses various educational approaches, educational outcomes for home educated children and a myriad of other issues about home education both specific to the countries in which that research has taken place, and more generally. However, the aim of this paper is to consider and understand home education in its Australian context and not to assume that it equates to home education in other countries. This paper therefore focuses upon two decades of research on home education conducted by education experts, state and territory governments, education departments, and post-graduate students in Australia and discusses it in relation to Australian laws.

II WHAT IS HOME EDUCATION?

A Definitions

Home education is recognised as a legal alternative to compulsory school attendance in every jurisdiction in Australia.¹ Statutory definitions are provided in the Australian Capital Territory (ACT), New South Wales (NSW) and Queensland. The ACT *Education Act 2004* defines home education as 'education conducted by one or both of the child's parents from a home base'.² In NSW it is defined as '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'.³ In Queensland home education is defined as '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'.⁴

A definition of home education may also be implied from the Commonwealth *Social Security Act 1991*, which recognises and supports parents who are home educating their child(ren). That Act defines a 'home educator' as a person whose 'child is receiving education that substantially replaces the education that the child would otherwise receive by attending school'⁵ and who 'meets the requirements (if any) of any state or territory law'.⁶ Home education by implication is pursuant to this act 'education that substantially replaces the education a child would otherwise receive at school'.

In the Northern Territory, the Department of Education and Training (NT DET) states it 'recognises that the terms "home education" and "home schooling" are often used interchangeably'.⁷ It states it '[chooses] 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'.⁸

Home educators define home education as a 'practical and successful alternative to school based education which embraces learning in the whole community'.⁹ Such a definition does not restrict home education to a home base nor suggest that it is school in the home.

That different states, territories and home educators define home education differently is telling. How one views or defines home education affects how home education is regulated. Notably, all definitions, except that found incidentally in the Commonwealth *Social Security Act*, focus upon *where* education takes place. Statutory definitions emphasise the 'home base', 'school at home', or 'education ... primarily at the child's usual place of residence'. Home educators emphasise that home education takes place outside of a school at home and in the broader community. There is immediately a disparity between views of regulators and those being regulated.

Secondly, these definitions shed no light on what home education involves. The Commonwealth 'definition' that home education is education that '*replaces the education*' a child would '*otherwise receive at school*' is ambiguous. It may mean home education is akin to school at home and that students study the same subjects in the same ways. Alternatively, a

broad interpretation would be that it entails any program of education that is followed *instead of attending school*. To clarify which in fact better defines home education the discussion turns to two key issues (1) approaches to home education and (2) the issue of socialisation.

B Approaches to Home Education

Whilst it is beyond the scope of this paper to discuss the many and varied approaches taken by home educators in great depth, Table 1 provides an overview of such approaches in order to inform the reader.

Table 1: Home Education: A Summary of Major Approaches¹⁰

Approach	Description
Structured Approach	A structured curriculum that prescribes textbooks, study schedules, grades and record keeping is followed. Some families make up their own lesson plans and find their own learning materials. This approach may be more akin to school depending upon the 'teaching' and study methods adopted by the home educator(s) and children. Children however are not limited to studying in one location, and may utilise libraries and other community facilities outside of the home.
Unit Studies	Unit studies focus on what a child is interested in and then tie that interest into subject areas like math, reading, spelling, science, art, and history. For example a child who is interested in space might study the history of space travel, read books and do art projects on the solar system, visit science museums and space communications centres, and learn about the physics of rockets.
Classical Approach	Classical education depends on a three-part process of training the mind – grammar, logic and rhetoric are taught as tools that students can use to master every other subject. The early years of learning are spent in absorbing facts, systematically laying the foundations for advanced study. In the middle grades, students learn to think through arguments. In the higher years, they learn to express themselves. Classical education is language-focused; learning is accomplished through words, written and spoken, rather than through images (pictures, videos, and television).
Charlotte Mason Approach	Mason's approach was to teach basic reading, writing and arithmetic skills and then expose children to the best sources of knowledge for all other subjects. This included nature walks, visiting art museums, reading real books with 'living ideas' (books which made the subject come alive rather than textbooks). Children are involved in a broad spectrum of real-life situations and given ample time to play and create. They are also taught good morals and habits. Children are encouraged to 'tell' what they have learnt through writing, art, and performance.
Unschooling/ Natural Learning	Unschooling refers to a range of educational philosophies and practices which posit that children should be allowed to learn through their natural life experiences. This includes child directed play, game play, household responsibilities, and social interaction with people across age ranges in a variety of settings. It is opposed to conventional schooling and following structured curriculums or teaching. Exploration of activities is child led, facilitated by the adults.
Eclectic Home Education	As the name suggests an approach that combines other approaches including those above and/or a 'blended learning' approach which may involve part-time school attendance, accessing distance education courses, or 'e-learning' using a variety of educational programs available on the internet.

Australian research on the approaches described in Table 1 shows there are varying degrees of structure used by different families.¹¹ Depending on the approach adopted home education can be similar or completely dissimilar to school-based education.¹² Approaches that rely more heavily on studying textbooks and structured curriculum may be more akin to schooling however this is not always the case depending on what an individual family decides.¹³ It is more common than not for families to move from more structured to less structured approaches over time as they gain experience.¹⁴ Additionally, as parents work with their children they responsively and 'progressively modify' their programs to meet specific needs and interests of their individual children.¹⁵ In all approaches children may draw significantly upon experiential learning in a variety of settings, and utilise community resources such as libraries, museums, art galleries and other facilities publicly available in order to gain knowledge and understanding of subject areas.¹⁶

Despite the variety of approaches that may be taken by home educators, recognition and/or facilitation of such approaches is found to differing degrees across Australian jurisdictions. This again reflects differing degrees of understanding what home education is and what it involves.

The Northern Territory's Department of Education and Training (DET) stipulate criteria that reflect an expectation more structured approaches.¹⁷ 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 Board of Studies courses suggest a view that home education is akin to school and should adopt school like approaches. DET also requires a portfolio of each child's work for the previous year be reviewed during an annual home visit.¹⁸ There is no provision for ongoing and progressive modification of educational programs or a recognition that families move from more structured to less structured or eclectic approaches over time.

Similarly, the South Australian Department of Education and Community Services (DECS) state a number of conditions upon which approval by them for home education will be given.¹⁹ One such condition is that 'the 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'.²⁰ In stipulating what a 'suitable educational program' is DECS state programs need to align with South Australian Curriculum Standards, Accountability (SACSA) Framework.²¹ This framework 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).²² DECS also state 'successful home education programs are 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'.²³ Whilst not precluding less structured educational approaches such requirements might not easily accommodate approaches in which activities are child led and facilitated by the adults rather than planned in advance.²⁴ Nor does such regulation recognise or encourage progressive modification of programs which would allow flexibility to meet a child's changing learning needs.

All other jurisdictions seem to accommodate the variety of approaches described in Table 1 but differ from each other on curriculum and reporting requirements.

Registration in NSW is dependent upon a child receiving instruction that meets the relevant requirements relating to the minimum curriculum for schools.²⁵ The minimum curriculum

requirements stipulate broadly what should be covered within each of the key learning areas.²⁶ The Office of Board of Studies also require parents to document programs of study and provides sample approaches to record keeping.²⁷ The required documentation and/or adoption of such approaches to record keeping, like the above jurisdictions, are based on the premise that the child's 'program' is planned in advance. However, there are no stipulations about how curriculum should be addressed or the approach to be taken to learning and anecdotal evidence from NSW families who adopt a natural learning approach indicates that the OBS accepts detailed documentation of daily activities for a period rather than an educational plan/program per se.²⁸ NSW therefore allows for progressive modification of educational programs and simply requires evidence of such action.

In Western Australia all educators, including home educators, are required to implement the curriculum framework in accordance with the *Curriculum Council Act 1997* and the *School Education Act 1999*.²⁹ The curriculum framework covers the eight key learning areas,³⁰ but does not stipulate the approach that must be taken when addressing these areas. The Western Australian Department of Education and Training home education policy however states

It is intended that the Framework be used flexibly in the delivery and evaluation of home education. Parents who choose home education do so for a variety of reasons, and the forms of education that they wish to provide to their children are diverse. In implementing the Framework, home educators structure learning opportunities according to their children's particular needs.³¹

Western Australia thus appears to recognise the need for flexibility and the variety of approaches home educators may take.

In Victoria, 'home schooling'³² parents must have a commitment to substantially address the same eight key learning areas as the jurisdictions above in a manner which is consistent with the democratic principles outlined in the *Education and Training Reform Act 2006 (Vic)(ETR Act)*.³³ These principles are:

1. All providers of education and training, both government and non-government, must ensure their programs and teaching are delivered in a manner that supports and promotes the principles of Australian democracy, including a commitment to elected government, the rule of law, equal rights for all before the law, freedom of religion, freedom of speech and association, and the values of openness and tolerance;
2. All Victorians, irrespective of the education or training institution they attend, where they live or their social or economic status, should have access to a high-quality education that seeks to realise their learning potential and maximises their education and training achievement, promotes enthusiasm for lifelong learning and allows parents to take an active part in their children's education and training; and
3. Parents have the right to choose an appropriate education for their children.³⁴

However, unlike the above jurisdictions, there is no requirement in the *ETR Act* or the *Education and Training Regulations 2007 (Vic)* for 'home schooling' parents to provide a copy of any curriculum, program or other related materials to the Victorian Registrations and Qualifications Authority at the point of initial registration, or annual notification. Despite calling it 'home schooling', the regulations in Victoria do not reflect that the approach taken must be akin to school. In fact, the governing legislation, regulations and oversight body are silent on issues

of approach and do not impliedly show preference for one approach over another. Nonetheless, requirements to substantially address the eight key learning areas might not be feasible for children for whom educational programs are modified due to their being learning disabled.³⁵

The Australian Capital Territory (ACT) again differs. Section 128 of the *Education Act 2004* (ACT) provides principles upon which regulation of home education is based. These principles include that parents have the right to choose a suitable educational environment for their children;³⁶ there is a diversity of religious and educational philosophies held by parents providing home education for their children;³⁷ the diversity of educational philosophies reflects the diversity of preferences of parents for particular forms of education for their children;³⁸ and that home education is committed to —

- (i) offering a broad range of opportunities that foster in each child the development of the child's unique spiritual, emotional, physical, social and intellectual being; and
- (ii) valuing the individual needs, interests and aptitudes of each child; and
- (iii) preparing each child to become an independent and effective local and global citizen.³⁹

Such principles both explicitly and impliedly recognise the variety of approaches taken by home educators. They do not equate home education with school nor suggest that home education is restricted by location. Nonetheless, registration of a child for home education is subject to the parents of the child providing a 'high-quality education' for the child;⁴⁰ documenting the educational opportunities offered by the parents to their child and the strategies they use to encourage their child to learn;⁴¹ and making available for inspection on request by the chief executive any education programs, materials or other records used for the home education.⁴² In order to satisfy these conditions parents are required to provide information that outlines the child's interests, abilities and educational needs; the approach to providing a high quality education for the child; the strategies used to encourage learning; the broad range of educational opportunities that will be provided to meet the child's educational needs including; a list of key materials and resources used; an outline of a typical week's activity; and how assessment is made of the child's educational progress.⁴³ There is no stipulation about what a child should study, and the ACT Non-Government Education Section does not supply or recommend any curriculum.⁴⁴

In Queensland, like the ACT, neither the *Education (General Provisions) Act 2006* (Qld) (*EGPA 2006*), the *Education (General Provisions) Regulations 2006* (Qld) or the Home Education Unit (which has oversight responsibility for home education in Queensland) stipulate particular curriculum requirements for Queensland home education. Pursuant to s 217 of the *EGPA Act*, two main standard conditions parents undertake to meet include:

- The provision of a high-quality education for the child; and
- The provision of annual written report on the child's educational progress (required in the 10th month of the registration year).

The annual report must provide evidence of a high-quality education 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.⁴⁵

This is the only state that clearly recognises that home education programs may be tailored and should be responsive to the changing needs of the home educated child.

Finally, like the ACT and Queensland, the Tasmanian *Education Act 1994* does not stipulate any curriculum requirements for home education. The Tasmanian Home Education Advisory Council (THEAC)—the body responsible for registration and monitoring of home education—further states:

It is not the role of the Council to recommend the style or curricula of your home education program. Home educators use a wide range of curricula and teaching approaches. Some choose to use commercially available 'packages' or program outlines, others select from school programs and some devise their own curriculum, using an eclectic selection of texts workbooks, multimedia, etc⁴⁶.

All approaches outlined in Table 1 may therefore be followed. Monitoring by THEAC requires the parent has made provision for clear aims and purposes for the educational program; opportunities for student development in literacy and numeracy; opportunities for social interaction; and strategies for keeping a record of each student's program and educational progress. THEAC however also state that 'the monitoring visit and subsequent report 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.

It is clear that regulation that accommodates the variety of approaches taken by home educators better reflects an understanding of what home education is and involves than regulation that takes the view that home education is akin to school in the home. Whether or not curriculum should be stipulated is a matter of debate, and is further discussed below when considering the extent to which home education should be regulated. The discussion now however turns to the second issue that helps clarify what home education involves – socialisation.

C Socialisation

Potentially because of the name given to home education, and definitions that emphasis the location of *home*, there has been much discussion about whether home education limits the opportunity of the child for socialisation. This section therefore explores the research on socialisation of home educated children in Australia.

1 Socialisation with Whom?

Socialisation for home educated children is not the same as socialisation that takes place at schools. Honeybone discusses that home educated children experience vertical socialisation as opposed to the horizontal socialisation offered by traditional schools.⁴⁷ Home educated children are socialised with people older and younger than themselves as well as equal in age. This differs to school socialisation in which children are predominantly mixed with same aged peers, and interact with only a few adults who are usually their teachers. The evidence is that home educated children experience a qualitatively different social experience which is more in line with socialisation experienced in the adult world which all young people eventually are presumed to enter.⁴⁸

Home educated children are involved in various sporting and special interest groups or clubs, music groups, and volunteer service opportunities.⁴⁹ Home education network groups are found to offer a very important social link for contact with other children of a wide range of

ages, including same age peers, and with wide ranging interests and abilities.⁵⁰ Home Education networks, sporting groups, special interest groups and volunteer services also provided children contact with a wide array of adults other than their own parents.⁵¹ There is no Australian research that supports the notion that home educated children are isolated from society or lacking in socialisation. However, it is important for parents to ensure social contact if the family itself is isolated or living an itinerant lifestyle.⁵²

2 What do Home-Educated Children in Australia Have to Say?

Thomas reports that a few children who were withdrawn from traditional schools found the social change too great and returned to school.⁵³ Most home educated children however report they find the many avenues to meet a wide range of people of all ages fulfilling and worthwhile.⁵⁴ Many home educated children also report their social experiences as home educated students are positive, as opposed to negative experiences that some experienced in schools.⁵⁵

Brosnan reports home educated children rate their families higher than traditionally educated students.⁵⁶ Children indicate good parental support from mothers and fathers; that responsibilities are shared; and low levels of physical punishment or the withdrawal of privileges used by mothers in particular.⁵⁷ Sibling relationships are reportedly healthy and supportive.⁵⁸ Significant results are found regarding self-esteem and mother support.⁵⁹ Brosnan also reports housework is shared, democratic practices are evident, and there is notable use of conversation, discussion, and expression of opinions. Family cohesiveness is a significant feature reported by children in home educating families.⁶⁰ Research on parent and student views of socialisation in many subsequent studies concurs with this assessment.⁶¹

3 What do Home Educating Parents in Australia Say?

Interviews of parents about socialisation indicates some parents report starting home education with some misgivings about socialisation but grow in confidence as they see their children becoming more competent in a wide variety of situations.⁶² Many parents comment that the socialisation provided in school caters only for same age interaction 'en masse', and same age integration has no out of school relevance or equal in society.⁶³ Many home educating parents are adamant school socialisation is unhealthy and damaging to their children.⁶⁴ Home education allows their children to develop a wide range of social skills and develop healthy self-concepts.⁶⁵

Parents take the matter of socialisation seriously and provided a wide range of opportunities to ensure their children have broad social experiences.⁶⁶ Some studies indicate home educators wish the general population had a more accurate and informed understanding of socialisation available to and experienced by the home educating community.⁶⁷

4 Bad Experiences and Learning to Negotiate Difficult Peers and Settings

Having discussed the positive socialisation that home educated children experience (and report) it is important to note that socialisation of home educated children is not contrived and therefore not limited to positive experiences. Home education includes interaction with other people in a variety of settings (such as sporting groups, social occasions and the family home to name a few) which may and often do present difficult social situations, including sometimes 'bad experiences'. It would therefore be incorrect to conclude that a child who is home educated might 'miss' the opportunity to learn how to navigate difficult social situations. The authors however

suggest that be it in at school or by way of home education, most people would advocate and hopefully report largely positive socialisation experiences for children.

5 Current State and Territory Regulation

In the NT, DET 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'.⁶⁸ In South Australia parents are required to report on 'opportunities for social interaction'. In Queensland, parents must show (amongst other things) that the education a child is receiving is 'responsive to the child's need for social development'.⁶⁹ Similarly THEAC in Tasmania require parents show that children have opportunity for social interaction.

The NT provisions do not reflect understanding or knowledge of the research discussed above. Nor do they recognise that home education provides not just same age socialisation, but socialisation across all ages. South Australian, Queensland and Tasmanian requirements do not deny home educated children receive adequate socialisation opportunities, they simply require proof that such social opportunities occur. All are curious. Just as we do not need 'proof' concerning the socialisation of children at school, proving that home educated children are socialised is not necessary if one accepts and understands that home education involves vast and varied opportunities for socialisation. One could nevertheless assume that all of these jurisdiction's requirements would easily be met.

D Conclusion

The above discussion highlights a number of anomalies between some statutory definitions, regulation of home education in Australia and what home education is. This includes a mistaken emphasis in some states on location and in particular the home; failure to allow for the variety of educational approaches that may be taken including the need to progressively modify programs; and/or failure to understand or appreciate the opportunities for socialisation that home education provides. Whilst home education does occur from a 'home base' many home education approaches extend learning well beyond the bounds of the family home by way of experiential learning and use of community resources.

Given that home education is a legally recognised and accepted alternative to mainstream school education, regulation should reflect understanding and acceptance of the variety of approaches that home educators may take to providing education. Whilst broad curriculum requirements appear to be a satisfactory way of ensuring that all children receive a varied and comprehensive education, it appears flexibility is lacking in many jurisdictions. Most jurisdictions require that home education (like all education) address eight key learning areas however few provide for or even recognise the need to modify education programs so that they meet individual needs. As will be seen below this is one of the benefits of home education, particularly for children with special needs. Given the value to children of experiential learning and use of community resources, it also seems nonsensical that some regulations fail to allow for approaches to home education that emphasise these things.

Including general principles that emphasise the child's right to education, recognise diversity, and encourage the development of the child in a number of ways (for example spiritually, culturally, as a local and global citizen) is important. Such principles support the right of the parents and children to choose what form their education will take. They also emphasise that whilst approach to education is (and should be flexible) children must be encouraged to develop

tolerance, recognise and respect diversity and to partake in the freedoms and values of the society in which they live. Such principles are clearly stated, in the Victorian and ACT legislation.

It is suggested that a more suitable definition of home education would be: *home education is a legal alternative to school education that may adopt a variety of educational approaches all of which embrace learning at home and in the community to provide educational and social opportunities for children.*

III THE WHYS AND WHEREFORES OF HOME EDUCATION

A Introduction

This section considers Australian research on who chooses home education, why they choose it and the educational outcomes for children. The research considered provides an important basis for recognition that home education is a legitimate alternative to school education, chosen by a variety of families for a variety of reasons that reflect a desire for children to have positive educational experiences, good self esteem and shared family values. Outcomes for children are shown to be most satisfactory.

B Demographics of Home Education in Australia

A number of studies examine demographic information concerning home education in Australia.⁷⁰ These studies report that home educated children are located in capital cities, regional cities and rural locations;⁷¹ distance from formal education facilities is not the main reason for home education;⁷² and that families engaged in home education come from a wide variety of education and income levels and various occupation types.⁷³

The main home educator is most commonly the mother, although some parents share the role and a very small number of fathers take on the role of main educator.⁷⁴ Education levels of parents vary from year ten to tertiary qualifications.⁷⁵ Few parents have formal teaching qualifications.⁷⁶ However, absence of teaching qualification has been found not to affect the learning outcomes of students.⁷⁷ The primary income earners come from a variety of professional, self-employed or trade positions.⁷⁸ A few studies indicate there are very few single parents who were involved with home education.⁷⁹ In some studies it is obvious that many parents had made the commitment to home educate for the long term.⁸⁰ Students are home educated between the ages of four and eighteen; however, about two thirds of home educated students included in the research were of primary school age.⁸¹

Research in Australia therefore illustrates that home educating families are as diverse as families found in the population generally.⁸² They may differ however in the extent to which they are willing to or must forgo the income of two working parents to enable them to pursue this educational pathway.

C Why Parents Choose Home Education in Australia

Parent reasons for choosing home education have been examined in a number of Australian studies.⁸³ However, reasons given by Australian parents for home educating their children vary across studies and reflect the diverse population samples of each individual research project and arguably the diverse population of home educators generally.⁸⁴ Nonetheless, parents in all studies mentioned perceived negative aspects of traditional schools and positive features of home

education as influential in their decision to home educate.⁸⁵ This does not suggest that parents are unable to see any positive aspects of traditional schooling or negative aspects of home education, but merely that they decide home education is the most suitable choice for their child(ren).

Examples of the negative aspects of traditional schools as viewed by parents of home educated children include such things as lower academic achievement, learning difficulties not being 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, that the values acceptable to parents were not being upheld by traditional schools, and their own children's unhappiness with traditional schooling.⁸⁶ 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, stronger social experiences and growth because of the ability to mix with wide age ranges of people, values teaching and stronger family relationships.⁸⁷

Some studies report that parental concern for their children's best interests is a significant factor in the decision to home educate and to remain home educating.⁸⁸ Other studies mention family cohesiveness, parenting roles, religious beliefs, and academic success.⁸⁹

Research therefore indicates the reasons Australian families choose home education are many and varied. There is no research in Australia that suggests parents choose home education to isolate their children or to cause them harm. Both government and academic research indicates families choose home education because they believe it is the best option for their child(ren) and will achieve positive educational outcomes that reflect their values. One could assume this is akin to parents who send their children to school and make active decisions about which school to send them to – public or private, religiously affiliated or not, academically geared or sports orientated.

D Educational Outcomes

While there does not appear to be any major study on educational outcomes of home educated students in Australia, a few studies consider the question in certain contexts.⁹⁰ Thomas found that academic achievement for home educated students is at least equal to the average achievement of traditionally educated students, and that home educated children do not have difficulty entering traditional schooling.⁹¹ In two studies that consider performance on standardised tests, it is shown that home educated students who sat such tests scored above average.⁹² Studies done on home educated students using the ACE Home School Curriculum program found that students generally achieve very high academic results and enter tertiary institutions with ease,⁹³ and that student competency levels are equivalent whether families are subject to regulation or not.⁹⁴ That high academic results, entrance to University and subsequent professional working life are possible for home educated children is also illustrated anecdotally by reference to some very successful home educated adults.⁹⁵

Research also reports home education provides a good alternative for students who have learning difficulties or disabilities, showing advantages both academically and socially.⁹⁶ Some parents report teasing, rejection and/or bullying experienced by their children in schools in relation to their disabilities creates significant stress and diverted attention away from learning.⁹⁷ Such parents report better learning outcomes and improved self esteem subsequent to home educating their children.⁹⁸ This is supported by international studies which conclude home educated special

needs children benefit greatly from the individualised attention and opportunities for learning that home education allows.⁹⁹

However, one must also recognise that there is the potential for children who are home educated, just like their schooled peers, not to have positive educational outcomes or that their educators may 'fall short' in certain areas. It is therefore imperative that those who take responsibility for a child's education are facilitated and helped in meeting a child's educational needs. An example of this may be found in Tasmania which allows access to distance education resources. This is not permitted in other jurisdictions. Home educators might also engage the services of tutors, utilise externally run programs, and participate in home education associations which often organise many and varied programs for children.

E Conclusion

Research into the demographics, the reasons families choose home education and educational outcomes for home educated children provides a more complete picture of home education and outcomes for children. There is nothing in such research that suggests families who choose home education do so for questionable reasons or that home educated children are disadvantaged educationally or socially when compared with children who attend school. The research demonstrates that children who are home educated are achieving educational and social outcomes that serve them well. Of course, one could criticise results concerning *self-reported* positive experiences because they are given by parents and children who have embraced home education. Alternatively one might accept that people report having positive experiences because they are having positive experiences. If the latter is the case, what needs be considered is whether home education should be regulated beyond recognising it as a legal way of meeting education requirements in Australia, and if so, how.

IV THE REGULATION QUESTION

A Introduction

This section explores whether home education should be completely the domain of parents and not subject to interference by the state in the context of international human rights instruments to which Australia is a party. It also examines current Australian regulation of home education regarding registration or exemption from compulsory schooling requirements, monitoring and/or evaluation of home education programs, and the curriculum requirements for home educators outlined in Section II. It is argued that some regulation is acceptable, however once the state chooses to regulate home education the focus must be upon the child, recognising and facilitating successful educational and social outcomes from an informed position. A more consistent and fair framework of regulation than the one that presently exists in most jurisdictions is called for.

B Legal Responsibility For and Regulation of Home Education?

1 *The Universal Declaration on Human Rights and the Convention on the Rights of the Child*

That every person has a right to an education is recognised in international instruments such as the United Nations *Universal Declaration on Human Rights* (UDHR) and the *Convention*

on the *Rights of the Child* (CROC) to which Australia is a signatory.¹⁰⁰ These documents place responsibility for education in both the hands of parents and the state.

Article 26 of the UDHR provides that everyone has the right to education. It declares that '[e]ducation shall be free, at least in the elementary and fundamental stages' [and] that 'elementary education shall be compulsory ...'¹⁰¹ This suggests that education is the state's responsibility at least to the extent that the state must provide free education and is responsible for making education compulsory. Article 26 however also provides 'parents have a prior right to choose the kind of education that shall be given their children'.¹⁰² Responsibility therefore lies with both the parent and the state, whilst choice lies with the parent under this instrument.

CROC appears to focus on the state's responsibility to provide education and to encourage attendance at schools. Article 28 of CROC provides that:

States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall ...:

- (a) Make primary education compulsory and available free to all;
- (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- ...
- (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

Nonetheless, Article 2(2) of CROC also provides:

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.

Article 2(2) supports the argument that whilst education should be freely available to all children, a child should not be discriminated against or punished should their parents choose to undertake the responsibility for educating their child(ren) themselves based upon religious, philosophical or other opinions or beliefs they might hold. The responsibility to ensure a child's right to education is met lies again with both parents and the state.

Notably both instruments state that education should be compulsory. Some proponents of home education have taken issue with this. In particular, John Holt most well known for his advocacy of the 'unschooling' approach opined:

Young people and children should have the right to control and direct their own learning, that is, to decide what they want to learn, and when where, how much, how fast, and with what help they want to learn it.¹⁰³

Some argue that law that requires compulsory schooling or education does not serve this view. Holt advocates 'freedom of thought'.¹⁰⁴ To Holt, both compulsory schooling and compulsory education (in the sense of dictating what is to be studied) are in opposition to this 'fundamental human right'.¹⁰⁵ Pursuant to this view, the responsibility for learning is neither that of the state or of parents – children should be left to pursue their interests and their freedom of thought, parents are facilitators but not enforcers.

However, there are arguments for recognising the value of enshrining the right to education and in making it compulsory. Real world examples of children being denied the right to pursue their 'right of freedom of thought' and being prevented from learning to read, write, or study at all exist. For example, under Taliban rule in Afghanistan between 1996 and 2001 many girls were prohibited from studying.¹⁰⁶ People opposing such laws risked execution, persecution, jail, and/or torture. Ironically, home education served many children subject to such regimes.¹⁰⁷ In some rural areas of Afghanistan the exclusion of girls from education continues. There are other nations that face similar rule.¹⁰⁸ By enshrining a child's right to education such regimes may be challenged and choice regarding approach to education can continue.

Law may also protect home education and home educating families in other ways. For example, the mere presence of registration and continued notification requirements may deter people who wish to harm or exploit children using home education as a guise. Secondly, laws that recognise home educated children may (and should) give them equal access to support to which their schooled peers are entitled such as student assistance, concession cards and professional services.¹⁰⁹

Nonetheless, what must be enshrined in law is not the parental or state *right to control* education or learning, but the parental and state *responsibility* to ensure that all children are free to develop, think, learn and choose through education – whatever its form. Such laws do not need to dictate curriculum or police home education rather they need to provide an environment in which home education can be legitimately pursued.

Neither the UNDHR nor CROC dictate what must be taught, however they do emphasise certain values that such 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',¹¹⁰ and that 'it shall promote understanding, tolerance and friendship among all nations, racial or religious groups ...'.¹¹¹ 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';¹¹² and 'the development of respect for the natural environment'.¹¹³ It is with these values that the authors of this paper accord.

2 *The Law in Australia*

In Australia all states and territories have legislation requiring compulsory education from the age of six to seventeen years.¹¹⁴ All jurisdictions recognise home education as a legal educational pathway that meets compulsory education requirements, subject to parents registering their child for home education¹¹⁵ or gaining an exemption from the compulsory attendance requirements.¹¹⁶ This clearly reflects the principles discussed above in relation to the UNHRD and CROC. The extent to which the state plays a role thereafter may not.

In each jurisdiction, such registration and/or exemption is overseen by either the Minister of Education, or a department or body to which the Minister has delegated authority.¹¹⁷ As noted in Section II, above, Tasmania has an independent of government advisory council established specifically to register and monitor home education.¹¹⁸

Requirements for registration for each jurisdiction, and for exemption from compulsory schooling in South Australia, vary to the extent to which home education is overseen and the

level of reporting required in order to continue/renew registration or exemption. 'Curriculum requirements', discussed in Section II, also vary in relation to the level they are prescribed.

The Northern Territory imposes the strictest requirements which include interviewing the parent, the proposed teacher and the child; inspecting the facilities and resources, which are available for the child's education; and monitoring the child's education by inspecting the child's work portfolios annually and the condition of the facilities and resources as often as authorised representatives consider necessary.¹¹⁹ South Australia imposes similar monitoring and oversight requirements.¹²⁰ The South Australian Department of Children's Services also state that their 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.¹²¹

In Western Australia, there is provision for evaluation of the child's educational program and progress is to be made in the first three months of registration and then once a year thereafter.¹²² 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'.¹²³ Home educators need to satisfy the CEO that the child's educational progress is satisfactory pursuant to the curriculum requirements discussed above in Section II of this paper.

In Tasmania, registration occurs for a period of up to two years. The Tasmanian Home Education Advisory Council (THEAC) states once an Application for Home Education has been accepted, a monitoring visit will be arranged. Approval of an educational program will be based on the information and detail presented at the monitoring visit, and it is essential that dated samples of work and/or detailed information on the program and what has been completed/achieved since home education was commenced be shown. Discussion will also take place concerning plans for the program's future development. THEAC state 'the monitoring visit and subsequent report 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'.¹²⁴

Similarly, New South Wales requires application for registration which may be granted for six months to two years.¹²⁵ 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.¹²⁶ The Office of Board of Studies requires documentation satisfying them that the curriculum requirements as discussed above in Section II have been met.

In Victoria paper application and yearly notification is required that demonstrate to the Victorian Registration and Qualifications Authority (VRQA) 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*.¹²⁷ Review *may* occur where there is a concern that democratic principles and/or key learning areas are not being addressed. However, Victorian legislation prohibits VRQA personnel from visiting the residences of home schooling parents without their consent.¹²⁸ The child being home schooled is not required to be present, and an advocate for the parent may be present.¹²⁹

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'.¹³⁰ There are no provisions in the ACT or Queensland legislation that provide

for home visits or inspections. These jurisdictions, along with Victoria, tend to reflect less of a policing role and more of an oversight role.

Only three states allow for conscientious objection or exemption from these requirements, and then so only to a limited degree. In New South Wales, families with a genuine conscientious objection on religious grounds to registration for the education of their children at home may apply in writing for exemption.¹³¹ The Office of the Board of Studies however states 'this does not exempt parents from their responsibilities for providing children with a quality education and they must demonstrate that they meet the same requirements as registered home educators.

In the ACT, a child or the child's parents may apply to the chief executive for a certificate exempting the child from the requirement to be enrolled at an education provider or registered for home education or the full-time participation requirement.¹³² In deciding whether it is in a child's best interests to exempt the child, the chief executive may consider the following 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. Such exemption if granted may apply until the child is 17 years old or for a shorter period.¹³³

In Victoria, the Minister may by order or in a specific case, exempt a child or children from attendance at school.¹³⁴

C Conclusion

Based upon principles espoused in the UDHR and CROC the state and parents have a responsibility to ensure all children have access to education. Children do have the right to be free to develop, think, learn and choose through education – whatever approach taken. The law plays an important role in protecting such rights and freedoms.

All jurisdictions in Australia provide for compulsory education. They also all recognise home education as a legitimate way to meet such requirements. What is apparent, however, is the varying degrees to which Australian jurisdictions then exercise the role of monitoring such education. Some are very strict, requiring extensive reporting and inspections, others are more facilitative, require written reports, and only provide for home visits if there is a concern that a child's educational rights are not being met. Others still do not provide for home visits or inspections at all.

The issue of monitoring is contentious. It is the authors' position that some monitoring is acceptable, however such monitoring from educational authorities should only relate to whether a child's right to education is being met. Judgements about approaches taken, or the choice to home educate itself, should not be made. Viewing children's work and/or seeing diaries about what a child will do or has done may be an acceptable mode of doing this. Whether or not this should take place in the child's home is a matter for debate. It does however seem anomalous that should a home inspection be deemed necessary, and consent given, that the child not need to be present (as is the case in Victoria). Noting that such visits may be conducted to establish that a child's educational needs are being met, it might instead be reasonable to include a third party, elected by the family, to be present to ensure that the family does not feel intimidated by the educational authority's representative. This said, any other concern about a child's welfare should be reported to the child protection authorities and dealt with under the relevant laws and is not an issue related to home education.

V FUTURE DIRECTIONS AND CONCLUSION

Home education is a legal alternative to school education that may adopt a variety of educational approaches all of which embrace learning at home and in the community to provide educational and social opportunities for children. An examination of research concerning demographics of home educating families in Australia shows they reflect all family types, in all locations in Australia—with the exception that such families decide that a parent or parents are going 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. It is also apparent that 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 and/or disabilities compared to mainstream schooling. Children who are home educated largely report great satisfaction with their educational and social experiences.

This paper has argued that in order to protect the rights of children to education as espoused in international human rights documents ratified by Australia, some regulation of home education is necessary and/or acceptable. However, such regulation should facilitate home education. Whilst it may safeguard home education from being used as a guise by people who mistreat or exploit children, it should not be enforced with the approach that legitimate home educating families need to be policed. The discussion of the *whats*, *whys* and *wherefores* of home education in this paper further indicates that the ability to be flexible with the delivery of education is a cornerstone of the success families experience as home educators. It is therefore imperative that any regulation recognise and allows for this.

Consideration of the current state and territory regulation of home education shows the various jurisdictions to reflect quite disparate approaches. Whilst all require registration for home education or exemption from compulsory attendance requirements, some have adopted strict regulatory regimes that include having authorities inspect people's homes and that stipulate quite specific curriculum criteria. It is argued that this is unacceptable. Other jurisdictions in Australia enable parents to report to the oversight authority on the child's educational experiences, provide broad learning areas, and only review the individual family's registration if there is a concern that the child is not receiving a high quality education, or an education that does not reflect the democratic principles of this country. This is the preferred position.

In conclusion, the authors argue that regulation regarding home education should be uniform across Australia, should reflect the preferred position presented in this paper, and facilitate home educating families. It should be recognised that whilst evidencing a child is engaged in and receiving an education is important, inspecting their home does not necessarily meet this goal. Home educating families should be helped and supported in their choices. The need for flexibility regarding curriculum and approach should be recognised, particularly where it enables modification of learning programs to meet individual children's needs and different learning styles. Finally, any regulation imposed should reflect understanding and knowledge of two decades of research in Australia, which supports the legal recognition that home education is an acceptable and legitimate pathway to meeting compulsory education requirements in this country.

Keywords: home education; regulation; education law; compulsory education.

ENDNOTES

- 1 Relevant legislation, regulations, information and/or guidelines include: *Education Act 2004 (ACT)*, s 10(2)(b), s 129, Part 5; *Education Regulations 2005 (ACT)*; The ACT Department of Education, *Manual for Registration of Home Education in the ACT* (2008); *Education and Training Reform Act 2006 (Vic)*, s 2.1.1; *Education and Training Regulations 2007 (Vic)*; Victorian Qualifications and Registration Authority, Home Schooling Support Materials for the Registration of Home Schooling in Victoria, (2008); *Education Act 1972 (SA)*, s 76 (which gives a legal right to exemption from school); *School Education Act 1999 (WA)*, in which home education is referred to throughout the Act and specifically governed by Division 6; *Curriculum Council Act 1997 (WA)*; Curriculum Council, *Curriculum Framework for Kindergarten to Year 12 Education in Western Australia*, (1998); *Northern Territory of Australia Education Act 2010 (NT)*, s 21(1)(b); Department of Education and Training, *Information Booklet for Parents Applying for Home Education 2010* (2010); *Education (General Provisions) Act 2006 (Qld)*, s 179, s 199, Chapter 9 Part 5; *Education (General Provisions) Regulations 2006 (Qld)*; *Education Act 1990 (NSW)*; *Education Amendment Act 2009 (NSW)*; Office of the Board of Studies, *Home Education in New South Wales: Information Pack* (2006); *Education Act 1994 (Tas)*.
- 2 *Education Act 2004 (ACT)*, s 129.
- 3 *Education Act 1990 (NSW)*, s 3.
- 4 *Education (General Provisions) Act 2006 (Qld)*, s 205.
- 5 *Social Security Act 1991 (Cth)*, s 5C(a).
- 6 *Social Security Act 1991 (Cth)*, s 5C(b).
- 7 Department of Education and Training, *Information Booklet for Parents Applying for Home Education 2010* (2010), 2.
- 8 John Barratt-Peacock, *The Why and How of Australian Home Education* (PhD Thesis, La Trobe University, 1997); Glenda Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School* (PhD Thesis, Monash University, 2009); Lucy Reilly, *Progressive Modification: How Parents Deal with Home Schooling their Children with Intellectual Disabilities*, (PhD Thesis, University of Western Australia, 2007); Allan Thomas, *Educating Children at Home*, (1998).
- 9 Beverley Paine, Home Education Association Inc <<http://hea.asn.au/aboutus.asp>> at 14 January 2010. Beverley Paine is a 'veteran' home educator. She and her husband Robin began homeschooling their three now adult children in 1986 and three years later started the South Australian Home Based Learners network. She has written and published several books and booklets on home education as well as maintaining an extensive collection of websites, and several Yahoo groups that support families teaching their children at home. She is a committee member of the Home Education Association of Australia.
- 10 The information in this table was obtained from a variety of sources including Jesse Wise and Susan Wise Bauer, *The Well Trained Mind: Classical Education for the Next Generation* (1999); Debra Bell, *The Ultimate Guide to Homeschooling* (3rd Ed, 2005); and John Holt, *Teach Your Own* (1981).
- 11 Most notably Barratt-Peacock, *The Why and How of Australian Home Education*, above n 8; A. Jacob, et al, *Home Education in Tasmania: Report of Ministerial Working Party October 1991* (1991); New South Wales Board of Studies, *Home Education Study Report of Findings*, (2004).
- 12 Barratt-Peacock, *The Why and How of Australian Home Education*, above n 8; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8; Jacob, et al, above n 11; New South Wales Board of Studies, above n 11; Reilly, *Progressive Modification: How Parents Deal with Home Schooling their Children with Intellectual Disabilities*, above n 8; Thomas, above n 8.
- 13 Ibid.
- 14 Ibid.
- 15 Ibid.
- 16 Ibid.
- 17 Northern Territory Department of Education and Training, *Information Booklet for Parents Applying for Home Education 2010* (2010), 4.
- 18 Ibid, 6.

- 19 By way of exemption from compulsory attendance at school: *Education Act 1972* (SA), s 76.
- 20 South Australian Department of Education and Community Services, Parents and Community: Condition of Approval (2010) <<http://www.decs.sa.gov.au/portal/community.asp?group=matters&id=HomeEd>> at 31 January 2010.
- 21 Ibid.
- 22 Ibid.
- 23 Ibid.
- 24 Barratt-Peacock, *The Why and How of Australian Home Education*, above n 8; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8; Krivanek, *Children Learn At Home: The Experience of Home Education*, (1985); New South Wales Board of Studies, above n 11; Reilly, *Progressive Modification: How Parents Deal with Home Schooling their Children with Intellectual Disabilities*, above n 8; Thomas, above n 8.
- 25 *Education Amendment Act 2009* (NSW), s 73; *Education Act 1990* (NSW), Part 3.
- 26 See Office of the Board of Studies, *Home Education in New South Wales: Information Pack* (2006), Part 2.
- 27 Ibid.
- 28 Anonymous, Personal Communication to Authors 10 January, 2010.
- 29 *School Education Act 1999* (WA), ss 53(2)(a)(1).
- 30 As per the other states these are English; Mathematics; Science; Design and Technology; Studies of Society and Environment; The Arts; Health and Physical Education; Language Other than English.
- 31 The Government of Western Australia Department of Education and Training, *Home Education* (Policy Document effective 9 April 2010).
- 32 As it is referred to in the Victorian legislation, but not necessarily by home educating families.
- 33 Education and Training Regulations 2007 (Vic); Victorian Qualifications and Registration Authority, *Home Schooling Support Materials for the Registration of Home Schooling in Victoria*, (2008).
- 34 *Education and Training Reform Act 2006* (Vic), s 1.2.1.
- 35 Barratt-Peacock, *The Why and How of Australian Home Education*, above n 8; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8; Krivanek, *Children Learn at Home, The Experience of Home Education*, above n 24; New South Wales Board of Studies, above n 11; Reilly, *Progressive Modification: How Parents Deal with Home Schooling their Children with Intellectual Disabilities*, above n 8; Thomas, above n 8.
- 36 *Education Act 2004* (ACT), s 128(a).
- 37 *Education Act 2004* (ACT), s 128(b).
- 38 *Education Act 2004* (ACT), s 128(c).
- 39 *Education Act 2004* (ACT), s 128(d).
- 40 *Education Act 2004* (ACT), s 132(a).
- 41 *Education Act 2004* (ACT), s 132(b).
- 42 *Education Act 2004* (ACT), s 132(c).
- 43 The ACT Department of Education, Manual for Registration of Home Education in the ACT (2008).
- 44 Ibid.
- 45 Queensland Government, *Education (General Provisions) Act 2006* s 217(2); *Approved Form CRH-IV3: Reporting for Continuing Registration for Home Education* (2010).
- 46 Tasmanian Home Education Advisory Council Website, 'Curriculum', <<http://www.theac.org.au/?page=curr>> at 31 January 2010.
- 47 Ruth, Honeybone, *A South Australian Case Study Examining the Home - Schooling Experiences of Eight Primary School Aged Children and Their Families*, (Bachelor of Education Honours Thesis, University of South Australia, Adelaide 2000), 47.
- 48 Erica Clery, 'Homeschooling: The Meaning that the Homeschooled Child Assigns to this Experience' (1998) 8(1) *Issues in Educational Research*, 1-13; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8; Blair Harp, *Home Schooling: A Study of Reasons Why Some Central Queensland Parents Choose the Home Schooling Alternative for their children*, (Master of Education, Central Queensland University, 1998); Thomas, above n 8.
- 49 Jackson, above n 8; Thomas, above n 8.

- 50 New South Wales Board of Studies, above n 11; Reilly, *Progressive Modification: How Parents Deal with Home Schooling their Children with Intellectual Disabilities*, above n 8; Thomas, above n8.
- 51 J. Barratt-Peacock, 'Australian Home Education: A Model', (2003) 17(2) *Evaluation and Research in Education*, 101-111; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8; Reilly, *Progressive Modification: How Parents Deal with Home Schooling their Children with Intellectual Disabilities*, above n 8.
- 52 Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8.
- 53 Thomas, above n 8, 112
- 54 Clery, above n 48; Glenda Jackson, 'Home Education Transitions with Formal Schooling: Student Perspectives' (2007) 17(1) *Issues in Educational Research*, 62-84; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n8; Lucy Reilly, Anne Chapman, and Tom O'Donoghue, 'Home Schooling of Children with Disabilities' (2002), 18(1) *Queensland Journal of Educational Research* 38-91; Reilly, *Progressive Modification: How Parents Deal with Home Schooling their Children with Intellectual Disabilities*, above n 8; Thomas, above n 8.
- 55 Anne Chapman and Tom, O'Donoghue, 'Home Schooling: An Emerging Research Agenda' (2000) 27(1) *Education Research and Perspectives*, (2000) 19-36; Clery, above n 48; Harp, above n 48; Honeybone, above n47; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n8; Krivanek, *Children Learn At Home: The Experience of Home Education*, above n24; Rosamund Krivanek, *Social Development in Home Based Education*, (Master of Arts, University of Melbourne, 1988); Thomas, above n8.
- 56 P. Brosnan, *Child Competencies and Family Processes in Homeschool Families* (Master of Education, Melbourne University, 1991), 73, 95
- 57 Ibid, 93-100
- 58 Ibid, 97
- 59 Ibid, 93-94; Clery, above n 48; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n8.
- 60 Brosnan, Above n 56, 95-96.
- 61 Barratt-Peacock, 'Australian Home Education: A Model', above n 51; Terrence Harding, *Why Australian Christian Academy Families in Queensland Choose to Home School: Implications for Policy Development*, (Master of Education, Queensland University of Technology, 1997); Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8; Deborah Jeffrey and Renee Giskes, *Home Schooling* (2004); Suzanne Lampe, *Home Education: A Survey of Practices and Attitudes*, (Master of Educational Studies, Monash University, 1988); Gerda Maeder, *Parents' Reasons in the Hunter Area for Choosing a Montessori School, Steiner School or Home Schooling for the Early Schooling of their Children* (Master of Early Childhood Education, University of Newcastle, 1995); Kate Patrick, *Enhancing Community Awareness of Home - Schooling as a Viable Educational Option* (Bachelor of Education Honours, Avondale College, NSW 1999); Melinda Simich, *How Parents who Home School their Children Manage the Process* (Master of Education, University of Western Australia, 1998); Thomas, above n 8. Note such studies indicate that families agreed not only on positive socialisation aspects but also reported positive learning and educational experiences as a whole.
- 62 Thomas, above n 8, 112; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n8; New South Wales Board of Studies, above n11; Reilly, above n 8.
- 63 Thomas, above n 8, 116-118; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8.
- 64 Thomas, above n 8, 117; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8, 99-100.
- 65 Thomas, above n 8, 115; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8, 100-104.
- 66 Thomas, above n 8, 112-114; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8.

- 67 Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n8; New South Wales Board of Studies, above n 11; Patrick, above n 61; Reilly, Chapman and O'Donoghue, above n 54, 38-91. Lucy Reilly, *How Western Australian Parents Manage the Home Schooling of Their Children with Disabilities*, (2004), Paper presented at the Australian Association for Research in Education (28 November - 2 December 2004), University of Melbourne; Simich, above n 61.
- 68 Northern Territory Department of Education and Training, *Information Booklet for Parents Applying for Home Education 2010* (2010), 4.
- 69 Queensland Government, *Education (General Provisions) Act 2006 s 217(2); Approved Form CRH-IV3: Reporting for Continuing Registration for Home Education* (2010).
- 70 John Barratt-Peacock, *The Why and How of Australian Home Education*, above n 8; Education Queensland, *Home Schooling Review* (2003); Harding, above n 61; Jacob, et al, above n 12; New South Wales Board of Studies, above n 11.
- 71 Ibid; Jackson, *More than One Way to Learn: Home Educated Students' Transitions Between Home and School*, above n 8.
- 72 Ibid.
- 73 Ibid.
- 74 Ibid.
- 75 Ibid.
- 76 Ibid.
- 77 Ibid.
- 78 Ibid.
- 79 Barratt-Peacock, *The Why and How of Australian Home Education*, above n8; Harding, *Why Australian Christian Academy Families in Queensland Choose to Home School: Implications for Policy Development*, above n61; Jackson, *'More than One Way to Learn': Home Educated Students' Transitions Between Home and School*, above n8; Lampe, above n61.
- 80 Harp, above n48; Jackson, *'More than One Way to Learn': Home Educated Students' Transitions Between Home and School*, above n8; New South Wales Board of Studies, above n11; Patrick, above n61; Reilly, above n8.
- 81 Terrence Harding, *A Study of Victorian Home Educator – Home School Law Reforms*, (2006), Paper presented at the Home Education Symposium and Parliamentary Presentation, Camberwell Civic Centre and Victorian Parliament, Melbourne; New South Wales Board of Studies, above n11.
- 82 Barratt-Peacock, *The Why and How of Australian Home Education*, above n8; Education Queensland, above n70; Jackson, *More than One Way to Learn': Home Educated Students' Transitions Between Home and School*, above n8; Jacob, et al, above n11; Jeffrey and Giskes, above n61; Krivanek, *Children Learn At Home: The Experience of Home Education*, above n24; Maeder, above n61; New South Wales Board of Studies, above n11; Reilly, Chapman, and O'Donoghue, above n54; Reilly, *Progressive Modification: How Parents Deal with Home Schooling their Children with Intellectual Disabilities*, above n8; Thomas, above n8.
- 83 Ibid.
- 84 Ibid.
- 85 Ibid.
- 86 Ibid.
- 87 Ibid.
- 88 Glenda Jackson, *'More than One Way to Learn': Home Educated Students' Transitions Between Home and School*, above n8; New South Wales Board of Studies, above n11; Reilly, Chapman and O'Donoghue, above n54; Reilly, above n8.
- 89 Barratt-Peacock, *The Why and How of Australian Home Education*, above n8; Education Queensland, above n70; Harding, *Why Australian Christian Academy Families in Queensland Choose to Home School: Implications for Policy Development*, above n61; Roger, Hunter, 'The Home School Phenomenon', (1994) 20(3) *Unicorn* 28-37; Jackson, *'More than One Way to Learn': Home Educated Students' Transitions Between Home and School*, above n 8; Jacob, et al, above n11; Jeffrey and Giskes, above n 61; Krivanek, *Children Learn At Home: The Experience of Home Education*, above

- n 24; Maeder, above n 61; New South Wales Board of Studies, above n11; Reilly, Chapman and O'Donoghue, above n 54; Reilly, *Progressive Modification: How Parents Deal with Home Schooling their Children with Intellectual Disabilities*, above n 8; Thomas, above n 8.
- 90 Kathleen Carins, *Graduates' Perceptions of the ACE Program as Preparation for Life Long Learning* (Bachelor of Education Honours Thesis, University of Tasmania, Hobart, 2002); Terrence Harding, 'A Comparison of the Academic Results of Students Monitored by the State, with the Academic Results of Students Not Monitored by the State', (2003), in *A Submission for the Home Schooling Review*. Brisbane: Australian Christian Academy; Jackson, *'More than One Way to Learn': Home Educated Students' Transitions Between Home and School*, above n8; Lampe, above n61; Simich, above n 61; Thomas, above n 8.
- 91 Allan Thomas, above n 8, 112.
- 92 Lampe, above n 61, 57-58; Simich, above n 61, 144-145.
- 93 Andrew McColl, *ACE Homeschooling: The Graduates Speak* (Master of Education, Christian Heritage College, 2005).
- 94 Terrence Harding, 'A Comparison of the Academic Results of Students Monitored by the State, with the Academic Results of Students Not Monitored by the State', above n90.
- 95 For example, Dr Yao Ban Chan, Research Fellow at the University of Melbourne Department of Mathematics who completed his PhD in 2006 at age 21, and his elder sister Yi Shuen, who has degrees in maths and music and is studying for a Master of Music. See University of Melbourne, 'Yao Ban is Uni's Youngest Ever PhD', 15(4) *UniNews* (20 March - 3 April 2006) <<http://uninews.unimelb.edu.au/view.php?articleID=3230>> at 5 February 2010. See Jackson, above n8 for further discussion.
- 96 M. Farris quoted in L. Reilly, *How Western Australian Parents Manage the Home Schooling of their Children with Disabilities*, above n 67; Jeffrey and Giskes, above n 61; Reilly, Chapman, and O'Donoghue, above n54; Reilly, *Progressive Modification: How Parents Deal with Home Schooling their Children with Intellectual Disabilities*, above n 8.
- 97 Reilly, *How Western Australian Parents Manage the Home Schooling of their Children with Disabilities*, above n 67; Jackson, 'Home Education Transitions with Formal Schooling: Student Perspectives', above n 54; Jackson, *More than One Way to Learn': Home Educated Students' Transitions Between Home and School*, above n 8.
- 98 Ibid.
- 99 S. Duvall, 'The Effectiveness of Homeschooling Students with Special Needs' in B. Cooper (Ed), *Homeschooling in Full View* (2005) 151; S.F. Ward, L.D., J.C. Delquadri, and C.R. Greenwood, 'An Exploratory Study of Home School Instructional Environments and their Effects on the Basic Skills of Students with Learning Disabilities', 20 *Education and Treatment of Children* 150-172J (2000); J Ensign, 'Defying the Stereotypes of Special Education: Home school students', 75(1-2) *Peabody Journal of Education* 147-158 (2000). Esta Rapoport, *Seizing Opportunity: Homeschool Parents Teaching Social Skills to Their Children with ADHD*, (Doctor of Education, Boston University, Boston, 2007).
- 100 Whilst Australia is party to these conventions, it has not enacted legislation which would give legal force to their principles. A treaty which has not been incorporated into municipal law cannot operate as a direct source of individual rights and obligations under that law. Nonetheless, by virtue of their near universal acceptance, and requirements that ratifying governments report back to the United Nations Committee with regards to compliance, they remain significant documents by which to ascertain the rights of children. It is also noted that many of the principles contained in these conventions are in fact reflected to varying degrees in various pieces of Australian legislation.
- 101 United Nations, *Universal Declaration on Human Rights* (1948), Article 26(1).
- 102 Ibid, Article 26(3).
- 103 John Holt, *Escape from Childhood – The Needs and Rights of Children* (1974), 186.
- 104 Ibid.
- 105 Ibid.
- 106 Caroline B. Fleming 'Even in Dreams, They Are Coming: Islamic Fundamentalism and the Education of Women in Afghanistan' (2004-2005) 11 *Wm. & Mary J. Women & L* 597.

- 107 Jackie Kirk and Rebecca Winthrop, 'Home-based school teachers in *Afghanistan*: Teaching for tarbia and student well-being', (2008) 24(4) *Teacher Education*, 876-888; see for example the Afghan Institute for Learning (AIL), <<http://afghaninstituteoflearning.org/>> at 20 January 2010. AIL supported 80 underground home schools for 3,000 girls in Afghanistan after the Taliban closed girls' schools in the 1990s.
- 108 Omar Waraich, 'Taliban Restrict Women's Education in Pakistan' (2009) *The Independent*, <<http://www.independent.co.uk/news/world/asia/taliban-restrict-womens-education-in-pakistan-1419199.html>> at 30 January 2010.
- 109 Jackson, above n 8; Reilly above n 8.
- 110 Ibid, Article 26(2); United Nations, Convention on the Rights of the Child, Article 29(1)(b).
- 111 United Nations, *Universal Declaration on Human Rights* (1948), Article 26(2); United Nations, *Convention on the Rights of the Child*, Article 29(1)(d).
- 112 United Nations, *Convention on the Rights of the Child*, Article 29(1)(c).
- 113 United Nations, *Convention on the Rights of the Child*, Article 29(1)(e).
- 114 *Education Act 2004 (ACT)*, s 10(2); *Education and Training Reform Act 2006 (Vic)*, s 2.1.1; *Education Act 1972 (SA)*, s 75; *School Education Act 1999 (WA)*, s 9; *Northern Territory of Australia Education Act 2010 (NT)*, s 21; *Education (General Provisions) Act 2006 (Qld)*, s 9; *Education Act 1990 (NSW)*, s 21B; *Education Amendment Act 2009 (NSW)*; *Education Act 1994 (Tas)*, s 4.
- 115 *Education Act 2004 (ACT)*, s 10(2); *Education and Training Reform Act 2006 (Vic)*, s 2.1.1; *School Education Act 1999 (WA)*, s 10(b), s 48; *Northern Territory of Australia Education Act 2010 (NT)*, s 21(1)(b); *Education (General Provisions) Act 2006 (Qld)*, Chapter 9 Part 5; *Education Act 1990 (NSW)*, ss 70-74; *Education Act 1994 (Tas)*, s 17.
- 116 *Education Act 1972 (SA)*, s 76 (by way of applying for an exemption).
- 117 Oversight bodies in each state and or territory are as follows: Australian Capital Territory – Chief Executive or delegate of Non-Government Education section of Department of Education; Victoria – Victorian Qualifications and Registration Authority; South Australia – Department of Education and Children's Services; Western Australia – Chief Executive Officer Department of Education; Northern Territory – Chief Executive Officer, Department of Education and Training; Queensland – Chief Executive, Department of Education Training and the Arts; New South Wales – Office of the Board of Studies; Tasmania – Tasmanian Home Education Advisory Committee.
- 118 The Tasmanian Home Education Advisory Council (THEAC) is made up of three members from the home education community and three members elected to the committee that are representative of the community at large. Tasmanian Home Education Advisory Council, <<http://www.theac.org.au/>> at 5 February 2010.
- 119 Department of Education and Training, *Information Booklet for Parents Applying for Home Education 2010* (2010).
- 120 South Australian Department of Education and Children's Services <<http://www.decs.sa.gov.au/portal/community.asp?group=matters&id=Process>> at 13 February, 2010.
- 121 Ibid.
- 122 *School Education Act 1999 (WA)*, s 51.
- 123 *School Education Act 1999 (WA)*, s 51.
- 124 Tasmanian Home Education Advisory Council, Registration Process and Monitoring <<http://www.theac.org.au/?page=reg>> at 5 February 2010.
- 125 *Education Act 1990 (NSW)*, ss 71-72.
- 126 *Education Act 1990 (NSW)*, s 74.
- 127 *Education and Training Regulations 2007 (Vic)*.
- 128 *Education Training Reform Act 2006 (Vic)*, s 5.8.4.1(b).
- 129 *Education Training Reform Act 2006 (Vic)*, s 5.8.4.1(b).
- 130 *Education Act 2004 (ACT)*, s 132; *Education (General Provisions) Act 2006 (Qld)*, 211.
- 131 *Education Act 1990 (NSW)*, s 75.
- 132 *Education Act 2004 (ACT)*, s 11H(1).
- 133 *Education Act 2004 (ACT)*, s 12A3(b).
- 134 *Education Training Reform Act 2006 (Vic)*, s 2.1.5.