

Home Schooling and Legislated Education

Terry Harding and Ann Farrell

*Centre for Innovation in Education, Queensland University of Technology,
Brisbane, Australia*

Abstract

Home schooling, as an alternate model of education, is emerging as a growing educational phenomenon throughout Australia. This paper critiques home schooling as an educational expression of parental responsibility for the education of children. Issues of child protection and duty-of-care are examined in the light of relevant legislative frameworks. Current notions of state and parental responsibility for educational provision are discussed in the light of critical theories.

Background

Home schooling or home education refers to the education of children within the home setting, independent of the formal schooling context, and usually overseen by parents or other adults, significant to the child and family. Rather than transferring responsibility for their children's education to the state, 'home schoolers' assume this responsibility themselves.

Over the past 20 years, home education has emerged as an educational phenomenon in many developed nations, with exponential growth in the United States of America, the United Kingdom and Australia (Meighan, 1984; Ray, 1994). Mayberry, Knowles, Ray and Marlow (1995) assert that it is likely that home schooling has become a permanent feature of the educational landscape. The National Home Education Research Institute (1995) recorded, in the United States, that from the late 1970s to the mid 1990s, the number of children being home educated rose from 12,000 to around 1 million. Ray (1992) estimated with some accuracy that the number of home educated students in the United States would be approximately 2% (or two million) of the school aged population by the year 2000.

Australia has seen a similar growth pattern in home education. Almost a decade ago, Hunter (1994) estimated that Australia's home school population was around 10,000 although he conceded that such a decentralised group is not amenable to rigorous census. At the time of Hunter's (1994) estimations, the Australian Christian Academy (ACA), as one example of a home schooling network, comprised 2,400 students¹. Currently, ACA has 3,600 students, a growth of around 50 percent over eight years. Based on Hunter's figures and, assuming that the growth of home schooling in Australia would follow the ACA growth pattern, one might estimate that the current number of home schoolers in Australia is well in excess of 15,000.

This contemporary educational trend is located within changing worlds of work, family and society, where new technologies and knowledge economies allow some individuals to access global knowledge from their own homes (Cazden, Cope, Fairclough & Gee, 1996; Stretton, 1999). New technologies and globalisation are reshaping schools

and families (Luke & Luke, 2001) and the force of these changes is yet to be known. Gee, Hull and Lankshear (1996) see such endemic change as emblematic of ‘new times’ (xii) fuelled by productivity-driven economic progress and by rapid worldwide integration of economies through international trade and information technologies (Castells, 1996; International Monetary Fund, 1997).

This growing movement, thus, raises issues of legal responsibility and ethical aspects of duty-of-care on the part of both the state and parents. An interesting juxtaposition is the belief that the state is responsible for the education of children with the belief of home educators that the parents are responsible for the education of their own children. Such a juxtaposition invites the question, ‘Who is responsible for the education of children?’

Home Schooling and Social Reproduction

Of interest to critical theorists (cf Apple, 1996; Ball, 1994, Connell, White & Johnson, 1991; Freire, 1964) is the way in which social institutions such as schools reproduce tacit social divisions based on wealth, privilege and power. Paradoxically, Guterson (1992) argues that contemporary home education is growing because traditional schools have lost their utility, ‘being unable to present to the next generation, the preferred culture of the parent generation’ (p.163). Critical theorists emphasise the importance of students’ cultural heritage as part of their cultural capital (McLaren, 1989; Tierney, 1999). The work of French sociologist Pierre Bourdieu (1985), while framed within the French education system, theorises ‘cultural capital’ (Bourdieu & Passeron, 1997) within reproduction theory as the ways of speaking and behaving through interactions within the family and society. School, in turn, can be seen to value and reward the cultural capital of the dominant culture and to devalue that of students from subordinate cultures. A case might be mounted that the home-schooling movement serves to legitimise the emergence of a sub-culture in alienation to the ‘cultural hegemony’ (Epstein, 1998, p.7) of the mainstream social institutions such as schools.

The critical frame, therefore, invites interrogation of the spaces inhabited by educational activity, be they in the home or the school in order to address parental responsibility for their children’s education and for the state’s duty-of-care towards children.

History of Home Schooling in Australia

A corpus of work asserts that education in colonial Australia began in the home (Austin, 1977; Cleverly, 1971; Ely, 1978). In 1788 Isabella Rosson in Sydney established what was to become known as a ‘dame school’ (Cleverly, 1971, p. 20). Dame schools were characteristically conducted in the living rooms and kitchens of the homes of benevolent women who would teach children. The children of convicts were instructed, gratis, while the children of the military were taught for a small fee.

Early in the colony’s history, responsibility for the education of children moved from the family home, to the Church of England. By 1793, the construction of Australia’s first church and school in Sydney was overseen by the Reverend Richard Johnson and housed 3 teachers and over 150 students. William Richardson, who had married Isabella Rosson in 1789, was in charge of the school, which operated until it was destroyed by fire in 1798. Education, thus, had become the responsibility of the church, with a mandate to both fund and staff the growing educational movement. More schools were built to meet growing demand and the Reverend

Samuel Marsden arrived in Sydney in 1792, to assist Johnson in the educational enterprise. From a critical theoretical perspective, such an enterprise might be conceptualised as robust vehicle of social reproduction.

As early as 1800, the state began to expand its responsibility for education in New South Wales and Governor King imposed a controversial import duty on goods to assist the church with its education budget. In 1872 watershed legislation vesting the state with the responsibility for the education of children was passed in Victoria. The *1872 Education Act* in Victoria was the first of the education acts to support ‘compulsory, free and secular’ education, which would appear in each colony over the next twenty years. All states committed to a national system of education, which was fully funded by the government and under ministerial control. During the first 100 years of European settlement, responsibility for education in Australia, therefore, had been transferred from the home, to the church and then to the state, a succession of social reproduction mechanisms.

Legislating Education

Since European settlement of Australia, each colony, state or territory has assumed a range of responsibilities for the education of children. Currently, all states and territories, except Victoria, have education acts that assume that the state has responsibility for the education of children. Essentially, these states reserve powers over home educators in two areas.

First, they assume power to give permission to parents to operate as home educators. Second, they assume power to give approval of the curriculum content of home-schooled children. Parents who educate their children at home without government permission in these states, face the possibility of legal sanction.

In the state of Victoria, however, both the *Education Act 1958*, and the *Community Services Act 1970*, assume that parents have a prior responsibility for the education of their own children, over that of the state’s mandate. They indicate that, if the home-educated child is under ‘efficient and regular instruction in some other manner’, which is comparable to education provided by the state of Victoria, there is no requirement by the state over such parents. Such law recognises that parents have responsibility, in the first instance, for the education of their own children.

There is a wide range of views on the state’s involvement in education. Many families believe that the state has no authority over the education of the child should parents wish to take full responsibility for it. They believe that education is only the role of the state if the family so chooses to delegate that responsibility to the state, by enrolling their child in a state-approved educational institution. These families choose to operate outside of the authority of the state education act.

Home educators claim that they have the responsibility and, thus, the authority to determine whether they ought to operate and to determine curriculum choices with their own children. In avoidance, and or, resistance of state intervention in what they regard as their private family educational activity, these families have chosen what is commonly known as the ‘non-permission route’ in home education.

Another view among home educators accepts the authority of the state to give permission to operate as home educators and to regulate the curriculum pursued in the home. This view is known among home educators as the ‘permission route’. Families taking the ‘permission route’ fulfil various government requirements that differ from state to state in accordance with their respective education acts. Such families are deemed to have met the requirements of the

education act and, thus, are able to access social welfare benefits that are linked to approved educational criteria such as Youth Allowance, Abstudy and Isolated Families Assistance. The difference between the ‘non-permission route’ and the ‘permission route’ as found among home schoolers illustrates two seemingly antithetical stances to the question: Who is responsible for the education of children: Parents or the state?

That parents are solely responsible for the education of their children is the subject of contention within the literature on the state’s responsibility for the education and care of children. Authors such as Farrell (2001) and Lindsay (1999) have reviewed the legislative responsibilities of the state towards children and young people in Queensland² and New South Wales³, respectively. So too, was the *United Nations Convention on the Rights of the Child 1989* (Balke, 1992) a landmark statement of state responsibility for children.

The state’s duty-of-care towards children also underpins legislation for screening, recruitment and probity checks of people who care for children and young people (*Commission for Children and Young People Act 2000*; Knott & Stewart, 2001; Royal Commission into NSW Police Service, 1997). Do and should such legislation apply to home schoolers, and if so, what are the enforcement corollaries?

While some pieces of legislation accept that families have the primary responsibility for child rearing (eg *Child Protection Act 1999*), there is an articulated case that the state has a vested interest in educating children as potential citizens (Cashmore, 1999). Acknowledgement of the state’s role in child rearing within family law and child welfare law has broadened the definition of rights and responsibilities of parents to their children (Dingwall, Eekelaar & Murray, 1995; Fox Harding, 1991).

While legislative initiatives explicate the state’s duty-of-care to children, there is equivocation, if not resistance, to such approaches (Muehlenberg, 1994; Myers, 1994). One argument mounted by opponents of state responsibility for and intervention in children’s education is that decisions affecting children are the province of the family and that state education legislation, in effect, subordinates, to the state, parental responsibility for the education and care of their children (Maley, 1998). Recent concerns have focused on the safety of children in public and private spaces, threats posed by the violence of adults and other children (Jenks, 1996; Walkerdine, 1999). Within a framework of regulated normative childhood (Boyden, 1997; Cashmore, 1999; Mayall, 1996), children are socially constructed as ‘objects of concern’ who require parental protection from the state and its activities. Adults, such as parents, often make decisions regarding what they think is best for a child and are typically justified as adults operating within a ‘principle of “care”’ (Jenks, 1996, p. 14). This version of childhood expects that adults know best and make decisions over and for children and that children accept adult authority.

Thus, two antithetical yet pragmatically co-existent positions are: on the one hand, that parents should provide education for their children, and, on the other hand, that the state should provide education for children.

Claims of Home Education

According to the research of Ray (1992), home educating families share a common belief, that the education of their children is primarily their responsibility. In addition, Ray (1992) noted that parents who educate their children at home 'are extremely interested in, and concerned about, the total education of their children' (p.6). Further, Divoky (1983) states that home educators 'are willing to be different, to take a socially unorthodox route to child rearing' (p. 397).

Harding (1997) identified six primary reasons that parents nominate for electing to home educate their children. These include: (i) religious beliefs; (ii) a heightened sense of parental responsibility for education; (iii) a commitment to high literacy and numeracy for their children; (iv) promotion of social development of their children and avoidance of negative peer influences; (v) practical reasons such as distance from school or financial need; and (vi) the special educational and health needs of their children

Ray (1992) noted that home educating parents direct their children's learning mainly in and near their home, although they routinely make use of community resources such as libraries, science centres, field trips, weekly teaching-learning cooperatives, regional sports programs, community groups and church activities. Tillman's work (1995) concurs with that of earlier researchers (Delahooke, 1986; Montgomery, 1989; Rakestraw, 1987; Wartes, 1987) that home-educated children participate successfully in a wide range of extra curricula and community activities within and beyond their age groups.

Proponents of home education assert that home-educated children can attain high academic achievement. For example, Roland Meighan (1996), Professor of Education at University of Nottingham, enumerates popular luminaries who were home educated such as Yehudi Menuhin, Patrick Moore, Agatha Christie, Margaret Mead, Thomas Edison, George Bernard Shaw, Noel Coward, C.S. Lewis, Bertrand Russel, Pearl Buck and John Stewart Mill. Conversely, advocates of home schooling give scant attention to reportedly adverse effects of home schooling on children and young people (Qld Teachers Journal, 2001).

Educational research through the 1980s and early 1990s has indicated that home-educated students have scored as well, if not significantly higher than, traditionally schooled students through various grade levels (Dellahooke, 1986; Frost, 1988; Rakestraw, 1987, 1988; Ray, 1986, 1992; Richman & Richman, 1988; Scogen, 1986; Tipton, 1991; Wartes, 1987, 1988, 1989, 1990). Research by Tizard, Hughes, Pinkerton and Carmichael (1982) found that home educating mothers used more sophisticated language and made more intellectual demands upon their children than did teachers in schools. Later, the research of Tizard and Hughes (1994) demonstrated that children's intellectual and language needs were much more likely to be met at home than at school. Similarly, Calvary, Bell and Vaupel (1992) compared academic achievement between home educated and traditionally schooled students in Arkansas for grades four, seven and ten. They found that the home-educated students scored higher than public schooled students in standardised academic tests of reading, mathematics, language, science and social studies. The largest nation-wide study of the academic achievement of home-educated students was conducted in the United States by Ray in 1992. Ray (1992) found that home educated students averaged at or above the 80th percentile on standardised achievement tests in all subject areas. Similarly, in the affective area, Shyers (1992) found home-educated students showed significantly higher assertiveness and self-concept ratings than traditionally schooled students. He also found that they demonstrated significantly lower problem behaviour as a means of resolving social issues than children in schools. So too, Ray (1990) and Smedley (1992) concur that students educated

at home attain normal levels of social and emotional adjustment. Such research attests to the academic and social gains of children educated in the home.

Conclusion

Thus, home schooling, while historically generative of early European education in Australia, is re-emerging as a 'new times' social movement which challenges social assumptions about the nature and purpose of education for children and young people. This paper argues for rigorous, critique of the movement in the light of child protection and child advocacy imperatives. Such a process of interrogation and the patterns of participation it is likely to uncover may allow us to reconceptualise 'new social identities...new kinds of people: new leaders, new students, new workers, new citizens' (Gee, Hull & Lankshear, 1996, p.xiv) within a socially just and equitable society.

Key words

Home schooling; legislation; child protection.

References

- Apple, M. (1996) *Cultural Politics and Education*. Buckingham: Open University Press.
- Austin, A.G. (1977) *Australian Education 1799-1900*. Carlton, VIC: Pitman.
- Balke, E. (1992) Children's Rights and the World Summit for Children. *International Journal of Early Childhood*. 24(1): 2-6.
- Ball, S. (1994) *Education Policy*. Philadelphia: Open University Press.
- Bourdieu, P., & Passeron, J. (1977) *Reproduction in Education, Society and Culture*. R. Nice (Trans), London: Sage Publications.
- Boyden, J. (1997) Childhood and the Policy Makers: A Comparative Perspective on the Globalisation of Childhood. In A. James & Prout, A. (Eds.), *Constructing and Reconstructing Childhood: Contemporary Issues in the Sociological Study of Childhood*. Washington, DC: Falmer Press.
- Calvary, R., Bell, D., & Vaupel, C. (1992) The Difference Between Home Schooled and Public Schooled Students for Grade Four, Seven and Ten in Arkansas. Paper presented to the Annual Meeting of the Mid-South Educational Research Association, Knoxville, TN, 11-13 November, 1992.
- Cashmore, J. (1999) Child Protection and Substitute Care: The Responsibility of Families, Community and State. In J. Bowes & Hayes, A. (Eds.), *Children, Families and Communities: Contexts and Consequences* (pp.136-155). Melbourne: Oxford University Press.
- Castells, M. (1996) *The Rise of the Network Society*. Oxford: Blackwell Publishers.
- Cazden, C., Cope, B., Fairclough, N., & Gee, J. (1996) A Pedagogy of Multiliteracies: Designing Social Futures. *Harvard Educational Review*. 66(1): 1-27.
- Cleverley, J.F. (1971) *The First Generation*. Sydney: Sydney University Press.
- Children's Commission Queensland (2000) *Newsletter*. Brisbane: Children's Commission.

- Clark, C.S. (1994) Home Schooling: Is it a Healthy Alternative to Public Education? *The Congressional Quarterly Researcher*, 4: 33.
- Connell, R., White, V., & Johnson, K. (1991) *Running Twice as Hard: The Disadvantaged Schools Program in Australia*. Geelong: Deakin University.
- Delahooke, M. (1986) *Home Educated Children's Social/emotional Adjustment and Academic Achievement: A Comparative Study*. Unpublished doctoral dissertation, California School of Professional Psychology, Los Angeles CA.
- Divoky, D. (1983) The New Pioneers of the Home Schooling Movement. *Phi Delta Kappan*, 64.
- Dingwall, R., Eekelaar, J. & Murray, T. (1995) *The Protection of Children: State Intervention and Family Life*. Averbury: Aldershot.
- Ely, M.J. (1978) *Reality and Rhetoric: An Alternative History of Australian Education*. Sydney: Alternative Publishing Cooperative.
- Epstein, J.E. (1998) Generation X, Youth Culture and Identity. In J. Epstein (Ed.), *Youth Culture: Identity in a Postmodern World* (pp. 1-23). Maldon, MA: Blackwell.
- Farrell, M.A. (2001) Legislative Responsibility for Child Protection and Human Rights in Queensland. *Australia & New Zealand Journal of Law & Education*. 6(1&2): 15-24.
- Fox Harding, L. (1991) *Perspectives in Child Care Policy*. London: Longman.
- Freire, P. (1985) *The Politics of Education: Culture, Power and Liberation*. South Hadley, MA: Bergin and Garvey.
- Frost, E.A. (1988) A Descriptive Study of the Academic Achievement of Selected Elementary School-aged Children Educated at Home in Five Illinois Counties. *Dissertation Abstracts International*, 48(1).
- Gee, J.P. Hull, G. & Lankshear, C. (1996) *The New Work Order. Behind the Language of the New Capitalism*. St Leonards, NSW: Allen & Unwin.
- Guterson, D. (1992) *Family Matters: Why Homeschooling Makes Sense*. Miami, Florida: Harcourt Brace Jovanovich.
- Harding, T.J.A. (1997) *Why Australian Christian Academy Families in Queensland Choose to Home School: Implications for Policy Development*. Unpublished thesis, Queensland University of Technology; Brisbane, Queensland.
- Hunter, R. (1994) The Home School Phenomenon. *Unicorn*, Vol.20. No.3, September 1994.
- International Monetary Fund (1997) *World Economic Outlook*. [www.imf.org/external/pubs.wcomay.010VEREmhtm](http://www.imf.org/external/pubs/wcomay.010VEREmhtm).
- Jenks, C. (1996) The Postmodern Child. In J. Brannen & M. O'Brien, (Eds.), *Children in Families: Research and Policy* (pp. 13-25). London: Falmer.
- Knott, A., & Stewart, D. (2001) Key Legal, Health and Safety Issues for Principals. *School Alert CCH*. 6:1-12.
- Lindsay, K. (1999) The New Children's Protection Legislation in New South Wales: Implications for Educational Professionals. *Australia and New Zealand Journal of Law and Education*, 4(1), 3-22.
- Luke, A. & Luke, C. (2001) Adolescence Lost/Childhood Regained: On Early Intervention and the Emergence of the Techno-Subject. *Journal of Early Childhood Literacy*, 1: 91-120.

- Maley, B. (1998) Children's Rights Ascendent. *Quadrant*. 42(6): 32-36.
- Mayall, B. (1996) *Children, Health and the Social Order*. Buckingham: Open University Press.
- Mayall, B. (1999) Children in Action at Home and School. In M. Woodhead, D. Faulkner & K. Littleton (Eds.), *Making Sense of Social Development* (pp. 199-213). London: Routledge.
- Mayberry, M., Knowles, J.G., Ray, B.D., & Marlow, S. (1995) *Home Schooling: Parents as Educators*. Thousand Oaks, CA: Corwin Press.
- McLaren, P. (1989) *Life in Schools: An Introduction to Critical Pedagogy in the Foundations of Education*. New York: Longman.
- Meighan, R. (1984) Political Consciousness and Home-based Education. *Educational Review*, 36: 165.
- Montgomery, L. (1989) The Effect of Home Schooling on the Leadership Skills of Home Schooled Students. *Home School Researcher*, 5(1).
- Muehlenberg, B. (1994) *In Defence of the Family*. Melbourne: Australian Family Association.
- Myers, J. (1994) *The Backlash: Child Protection Under Fire*. London: Sage.
- Queensland Teachers Journal*. Home Schooling is Child Abuse. 24(6): 7.
- Rakestraw, J.F. (1987) *An Analysis of Home Schooling for Elementary School-age Children in Alabama*. Doctoral dissertation, University of Alabama, Tuscaloosa.
- Rakestraw, J.F. (1988) Home Schooling in Alabama. *Home School Researcher*, 4(4): 1-6.
- Ray, B.D. (1986) *A Comparison of Home Schooling and Conventional Schooling: With a Focus on Learner Outcomes*. Paper presented as part of requirements of PhD at Oregon State University. SE, Salem OR.
- Ray, B.D. (1990) *Who Are the Home Schoolers and How Are They Going? A Review of Home School Research: Characteristics of the Families and Learner Outcomes*. Seattle: National Home Education Research Institute.
- Ray, B.D. (1992) *Marching to the Beat of Their Own Drum. A Profile of Home Education Research*. Salem, OR: Home School Legal Defence Association.
- Ray, B.D. (1994) *A Nationwide Study of Home Education in Canada*. Salem, OR: National Home Education Research Institute.
- NHERI (1995) *Home Education Research Fact Sheet II*. Salem, OR: National Home Education Research Institute.
- Royal Commission into the New South Wales Police Service (1997) *Final Report Vol. V: The Paedophile Inquiry*. Sydney: NSW Children's Commission.
- Richman, H. B., & Richman, S. (1988) Legalisation of Home Schools. *Education Week*.
- Scogin, L.A. (1986) *Home School Survey*. Great Falls, VA: Home School Legal Defence Association.
- Shyers, L., E. (1992) A Comparison of Social Adjustment Between Home and Traditionally Schooled Students. *Home School Researcher*, 8(3).
- Smedley, T. C. (1992) Socialisation of Home School Children. *Home School Researcher*, 2(2)
- Stretton, H. (1999) *Economics: A New Introduction*. London: Pluto Press.

- Sullivan, D. (1993) Home Schooling: Going to School by Staying at Home. *American Legion*, September, 4.
- Taylor, J. W., V. (1986) *Self-Concept in Home Schooling Children*. Doctoral dissertation, Andrews University, Berrien Springs, MI.
- Tierney, W.G. (1999) Models of Minority College-Going and Retention: Cultural Integrity Versus Cultural Suicide. *Journal of Negro Education*, 68(1): 80-91.
- The Education Act 1958 (Victoria)
- The Community Services Act 1970 (Victoria)
- Tillman, V.D. (1995) Home Schoolers, Self-esteem, and Socialisation. *Home School Researcher*. 11(3).
- Tipton, M. (1991) *An Analysis of Achievement Test Scores of West Virginia Home-schooled Children*. Unpublished master's thesis, Antioch University.
- Tizard, B., Hughes, M., Pinkerton, G., & Carmichael, H. (1982) Adults' Cognitive Demands at Home and at Nursery School. *Journal of Child Psychology and Psychiatry*, 23.
- Walkerdine, V. (1999) Violent Girls and Precocious Girls: Regulating Childhood at the End of the Millennium. *Contemporary Issues in Early Childhood* 1(1): 3-2.
- Wartes, J. (1990) Recent Results from the Washington Homeschool Research Project. *Home School Researcher*, 6(4).
- Wartes, J. (1987) *Washington Home School Research Project Report from the 1986 Home School Testing of Washington's homeschoolers*. (Available from Washington Homeschool Research Project, 16109 N.E. 169 Place, Woodinville, WA 98072).
- Wartes, J. (1988) The Washington Home School Research Project: Quantitative Measures for Informing Policy Decisions. *Education and Urban Society*, 21(1).
- Wartes, J. (1989) *Report from the 1988 Washington Homeschool Testing*. Available from the Washington Homeschool Research Project, 16109 N.E. 169 Place Woodinville WA 98072.

Endnotes

1. Harding, first author, is Principal of ACA.
2. *Child Protection Act 1999, Child Protection Amendment Act 200, Child Protection Regulation 2000, Commission for Children and Young People Act 2000*
3. *Children and Young Persons (Care and Protection Act 1998, Commission for Children and Young People Act 1998, Child Protection (Prohibition Employment) Act 1998, Ombudsman Amendment (Child Protection and Community Service) Act 1998*

