

# **EDUCATIONAL INEQUALITY: WHAT THE LAW IS AND ISN'T DOING**

## RATIONALE

### *Introduction*

My portfolio piece is centred on educational inequality in Australia, and takes the form of an explanatory video. The format was inspired by YouTuber CGP Grey's work, utilising accessible layman's language as far as possible and simple visualisations to represent complex issues. I chose the topic of educational inequality upon remembering a tutorial activity I did last year in Lawyers, Justice, and Ethics. The class all answered a series of questions, and when the results were collated, they spoke volumes about education in Australia: three-quarters of the class had gone to private high schools, over half had a parent who was a lawyer, and all but one out of the 25 students had at least one university-educated parent.

### *Relationship to Course Content*

Educational inequality is pertinent to many different aspects and approaches to complexity, as well as other content addressed in the course. On a very basic level, Sustainable Development Goals 4, 5 and 10 (quality education, gender equality, and reduced inequalities, respectively) all relate to ensuring everyone has the same access to a quality education. That Australia is not providing this equal education is concerning, both for its failure to meet those three goals, and in the effect this could have on other goals.

Many tools used to measure and unravel complex problems can be used for educational inequality. The video makes use of statistics and visualisation to help explain the issue. Public discourse around education is also something to keep in mind, as are the narratives that some sides may seek to enforce – for instance, that private schools are the cause of our educational inequality, or that the government cannot provide for peoples' "lifestyle choices" about their location (see Tony Abbott). It is also vital to remember the limitations of the quantitative tools we can use, lest we end up thinking everything is fixed when it is not. This could happen if adequate weight is not placed on lived experiences.

As outlined (albeit in layman's terms) in the video, systems thinking is also vital for our understanding of and solutions to this inequality. Choosing to focus on just one factor (such as public/private) could lead to Australia adopting a 'fix that fails'. Looking at all the different factors, and how they interact, is therefore important.

### *Legal Perspective*

Many different approaches can be used to examine educational inequality. As a politics and law student, however, I chose to focus on the legislative policy perspective.

The fact that all the states have their own, different systems adds a layer of complexity to the issue. This is because, even if we can isolate what key factors are causing inequality, and how we can tackle them, this would be on a national scale.

How could the states be convinced to take up the necessary measures?

Furthermore, we can see that educational inequality happens not just within states, but between them – the National Territory, for instance, has disproportionately high remote, Indigenous, and low SES students. Thus, how could the acutely affected parts of the country afford to tackle their problems? Since the probability of a successful referendum to change Section 51 of the Constitution is quite low, we must look to other, more creative solutions. This is where the *Australian Education Act 2013* (Cth) is relevant.

Its provisions allow for the federal government to tie state funding to certain conditions. This is allowed under s 96 of the *Constitution*, and since states derive much of their funds from such ‘special purpose payments’, it is in their best interests to follow the conditions. Thus, the Act provides *motivation* for states to improve the equity of their schooling systems. In weighting funding by need, it also provides the *ability* to do so.

What the Act does not do so well is account for disadvantage that cannot be solved with funding. Due to difficulty obtaining data, however, these solutions may fall into the realm of ‘unknown unknowns’ – we do not even know the problems, so we cannot begin to comprehend solutions. To overcome this, listening to different perspectives about lived experience is important. It is also important, particularly in the context of Aboriginal and Torres Strait Islander disadvantage, to consider cultural and identity barriers to educational inequality.

### *Conclusion*

Australia’s educational inequality is certainly a complex problem, with problems in measuring its extent, finding its root causes, and then actually solving these issues. Legislation such as the *Australian Education Act 2013* is a step in the right direction, giving states both the motivation and the ability to start tackling the problem.

## SCRIPT

Australia. The land of the fair go. An egalitarian nation where everyone has the chance to achieve their dreams, where we cheer for 'Aussie Battlers' and scoff at elitism. Except, that's not always how it goes.

Look at Australia's education system. In 2001, it was classed by the Programme for International Student Assessment as high quality, but low equity.<sup>1</sup> While improvements have since been made, inequality remains an issue, and in popular culture is often acknowledged between public and private schools. And it is tempting to put that divide down as the main cause of educational inequality in Australia – it flows from people's experiences and perceptions. For example, Year 9s at Townsville Grammar School performed a full band higher in reading than students at nearby Townsville State High School in last year's NAPLAN tests.<sup>2</sup> Easy solution, then: make all schools public schools, or if that's not possible, drastically decrease private school funding and increase public school funding.

But that simplistic view might just make things worse. To see why, we need to zoom out, and look at other schools and other factors. In the remote Tiwi Islands, we have the private Tiwi College. Its Year 9s scored here in their reading test, far below the Townsville state school.<sup>3</sup> If its funding were cut, results would suffer further, and it's not like kids can just go to a state school – the only schools on the islands that go until Year 12 are private. And then further compare the public James Ruse Agricultural High School. Its Year 9s scored all the way up here,<sup>4</sup> so increasing its funding would just create even more inequality.

So, if it's not just public vs private, what else is affecting students' results? An obvious one is socioeconomic status – in Tasmania, students were four times more likely to be below the minimum reading standard if they had a weekly income of under \$400, compared to \$2500 or more.<sup>5</sup> Parental education level also plays a role – you're more than twice as likely to go to university if your parents have university qualifications, compared to just high school.<sup>6</sup> Then there's your location – the more remote your area, the more likely it is you will score under the minimum threshold in

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<sup>1</sup> OECD, *Messages from PISA 2000* (OECD Publishing, 2006) 22.

<sup>2</sup> Australian Curriculum, Assessment and Reporting Authority, *Townsville Grammar School*, My School <<https://www.myschool.edu.au/SchoolProfile/Index/111199/TownsvilleGrammarSchool/47981/2016>>; Australian Curriculum, Assessment and Reporting Authority, *Townsville State High School*, My School <<https://www.myschool.edu.au/SchoolProfile/Index/110707/TownsvilleStateHighSchool/47485/2016>>.

<sup>3</sup> Australian Curriculum, Assessment and Reporting Authority, *Tiwi College*, My School <<https://www.myschool.edu.au/SchoolProfile/Index/113314/TiwiCollege/50164/2016>>.

<sup>4</sup> Australian Curriculum, Assessment and Reporting Authority, *James Ruse Agricultural High School*, My School <<https://www.myschool.edu.au/SchoolProfile/Index/105178/JamesRuseAgriculturalHighSchool/41811/2016>>.

<sup>5</sup> Australian Bureau of Statistics, *Socioeconomic Context of Student Achievement in Tasmania* (2 October 2015) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4261.6Main+Features32006-2013>>.

<sup>6</sup> Australian bureau of Statistics, *Hitting the books: Characteristics of higher education students* (4 March 2014) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features20July+2013>>.

NAPLAN testing.<sup>7</sup> There's also a significant gap between Indigenous and non-Indigenous children,<sup>8</sup> and students with disability also fall behind.<sup>9</sup>

An important point is how these factors interact not only with education, but with each other. For example, Aboriginal and Torres Strait Islander people disproportionately live in rural, regional, and remote areas.<sup>10</sup> Non-metropolitan areas tend to be poorer than cities.<sup>11</sup> And university-educated parents are likely to make more money, and can use that money send their children to private schools. Private school students are in turn more likely to go to university.<sup>12</sup> These interactions can therefore create cycles of educational inequality.

So, what's being done, and what can be done? Before we look it this, a quick sidenote about how the Australian education system actually works, which is complex in itself.

In Australia, the states control education. We can see this in the Australian Constitution, where the federal government's powers are all explicitly listed, and education is not among them.<sup>13</sup> The federal government therefore cannot directly fund or control primary and secondary education, so we end up with every state having its own education system. The government still sort of gets around this, though, by giving money to the states on the condition that this money is given to schools in the way the government says.

That brings us to the *Australian Education Act 2013*.<sup>14</sup> This Act represents a pretty large shift, in that it covers not only private schools, but state schools as well – though on more of a supplementary basis. The way it gets around the constitution's restrictions is through Sections 22(1) and 23(2).<sup>15</sup> The first requires States and Territories to: work on making their education systems high quality and high equity, improve teacher quality, support national education initiatives, and work on closing the gap between Indigenous and non-Indigenous students.<sup>16</sup> If they don't do these

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<sup>7</sup> Australian Bureau of Statistics, *Socioeconomic Factors and Student Achievement in Queensland* (16 February 2016) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4261.3Main+Features32011>>.

<sup>8</sup> Australian Bureau of Statistics, *Education and Indigenous Wellbeing* (28 June 2011) <<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4102.0Main+Features50Mar+2011>>.

<sup>9</sup> Australian Bureau of Statistics, *Disability* (30 May 2017) <<http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/4430.0Main%20Features202015?opendocument&tabname=Summary&prodno=4430.0&issue=2015&num=&view=>>>.

<sup>10</sup> Australian Bureau of Statistics, *Estimates of Aboriginal and Torres Strait Islander Australians, June 2011* (27 January 2016) <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/3238.0.55.001>>.

<sup>11</sup> Australian Bureau of Statistics, *Wage and Salary Earner Statistics for Small Areas, Time Series, 2005-06 to 2010-11* (15 March 2016) <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/5673.0.55.003#Anchor4>>.

<sup>12</sup> Gary Marks, 'School sector and socioeconomic inequalities in university entrance in Australia: the role of the stratified curriculum' (2010) 16(1) *Educational Research and Evaluation* 23-37, 24.

<sup>13</sup> *Australian Constitution* s 51.

<sup>14</sup> (Cth).

<sup>15</sup> *Australian Education Act 2013* (Cth).

<sup>16</sup> *Ibid*, s 22(1).

things, no money for them. The second details that the funding set for independent schools by the legislation must be given directly to each school or their appropriate authority.<sup>17</sup> So, the states can't just take that money and use it for what they want.

It's pretty clear that this legislation puts equity at the forefront. The Explanatory Memorandum of the Act says, 'having access to adequate funding...is the first step to ensuring schools can achieve the objectives of quality and equity.'<sup>18</sup> It has all these complicated formulae for weighting school funding based on various kinds of disadvantage. These are: students with disability; Aboriginal and Torres Strait Islander students; students with low socioeconomic status; location; and school size.<sup>19</sup>

So does the Act do what it's meant to?

Well, since it was only passed in 2013, it's a little early to be seeing results. However, there are some quirks in the complicated formulae that may cause some odd results. For example, a school's location is taken into account using its ARIA+ score.<sup>20</sup> But that value may not always be what you expect. For instance, Townsville is considered Outer Regional, while Mackay is classed as Inner Regional – despite having half the population, and being similarly far from other cities.<sup>21</sup>

The more important issue, though, is whether increasing funding is actually the solution for disadvantaged students. Certainly, money can do a lot – it can provide infrastructure, resources, and more teachers. But Smartboards don't solve cycles of disadvantage. Consider a student from a small town. They grow up only familiar with a few career options, and so don't try particularly hard in school and don't pursue higher education. This limits their available opportunities, keeping them in their small town, where they then have children with the same mindset. Or take a low-SES student, who knows they need to start working as soon as possible to help their family. They therefore stop school early, which limits them to lower-paying jobs, meaning their children then grow up to be low-SES as well. Increased funding for their school doesn't really seem to help these students. What they need is increased access to higher education, exposure to opportunities, and adequate support for student and family.

Even deeper than this, how do we know we're measuring the full extent of inequality? We can look at NAPLAN scores, but there are many arguments against their reliability.<sup>22</sup> We can look at university entrance or completion rates, but that fails to cover the hardship students may experience while in university, and whether they

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<sup>17</sup> Ibid, s 23(2).

<sup>18</sup> Explanatory Memorandum, *Australian Education Bill 2013* (Cth) 3.

<sup>19</sup> *Australian Education Act 2013* (Cth) s 31.

<sup>20</sup> Ibid, ss 40-41.

<sup>21</sup> Department of Health, *Doctor Connect* <<http://www.doctorconnect.gov.au/internet/otd/publishing.nsf/Content/locator>>.

<sup>22</sup> Senate Education, Employment and Workplace Relations References Committee, Parliament of Australia, *Effectiveness of the National Assessment Program – Literacy and Numeracy* (2014).

pursue the degree they truly wish to. Using it as a metric also involves making a value judgement about university in comparison to other post-school options. Our measurements aren't taking into account lost opportunities for extracurricular engagement, or the chance to network, or how much different people actually value education.

So, the *Australian Education Act* is definitely a step in the right direction. It does look at lots of the factors that affect education. But it doesn't look at how the factors can interact and reinforce each other. Laptops and new buildings alone cannot break these cycles. We also can't quantitatively measure a lot of our educational inequality. Until we work out how to do that, and how to expand students' opportunities through measures such as mentoring and accessible higher education, our education system will never be truly equal.