

## The Changing Conversation around Homeschooling: An Argument for More Data and Less Ideology

Mary Rice Hasson

Follow this and additional works at: <http://ir.stthomas.edu/ustjlpp>

 Part of the [Education Law Commons](#)

---

### Bluebook Citation

Mary Rice Hasson, *The Changing Conversation around Homeschooling: An Argument for More Data and Less Ideology*, 7 U. St. Thomas J.L. & Pub. Pol'y 1 (2012).

This Article is brought to you for free and open access by UST Research Online and the University of St. Thomas Journal of Law and Public Policy. For more information, please contact Editor-in-Chief [Patrick O'Neill](#).

# THE CHANGING CONVERSATION AROUND HOMESCHOOLING: *AN ARGUMENT FOR MORE DATA AND LESS IDEOLOGY*

MARY RICE HASSON

What follows are my reflections on one aspect of what has been, over the past few decades, an ever-changing, always fascinating public conversation<sup>1</sup> about the place of homeschooling in the modern educational fabric of our nation. The conversation is important, not only because it reflects stakeholders' current concerns and perceptions, but also because it shapes future policies, proposed legislation, and judicial perceptions, eventually influencing the educational roadmaps for children in families across the country.

This essay looks first at the current homeschooling landscape, noting key changes that have swept through the homeschooling movement over the past several decades. Next it analyzes some of the assumptions implicit in the current conversations about homeschooling, and argues that these conversations increasingly reflect a conflict of values, ideologies, and worldviews, more than they reflect differences over educational pedagogy and practice. Finally this essay concludes with a call for the public conversation about homeschooling to focus on objective measures of homeschooling's educational impact, rather than on subjective judgments, tainted by ideology, about whether homeschooling renders children sufficiently receptive to progressive ideals.

## I. HOMESCHOOLING: EVERYTHING ABOUT IT HAS CHANGED (ALMOST).

The changes in homeschooling within the United States over the past three decades have been nothing short of sweeping.

---

1. By public conversations, I include the conversations happening both within professional communities and among the public at large, as well as those conversations taking place in law reviews, educational journals, legislative chambers, school board meetings, churches, neighborhoods, and families.

*Law: A "Legal Revolution"*<sup>2</sup>

Largely as a result of legislative groundwork and litigation challenges spearheaded by the Home School Legal Defense Association (HSLDA),<sup>3</sup> homeschooling is now legal in all states.<sup>4</sup> Most states regulate homeschooling to some degree, from requiring simple notice to prescribing specific requirements regarding curriculum, testing, attendance, or parent certification.<sup>5</sup>

Several Supreme Court cases, well-analyzed elsewhere,<sup>6</sup> provide the legal underpinnings for parents' rights to homeschool and set loose parameters on the states' interest in regulating education.<sup>7</sup> Within the states, legal skirmishes center on the extent to which states may regulate homeschooling and whether particular regulations are "reasonable" under the law.<sup>8</sup> As one observer summed it up:

[T]he state cannot create 'regulations so severe as to eradicate the distinction between home and public education [so as to] destroy the alternative of private education guaranteed by *Pierce*.' Such regulations

2. Catherine J. Ross, *Fundamentalist Challenges to Core Democratic Values: Exit and Homeschooling*, 18 WM. & MARY BILL RTS. J. 991, 994 (2010).

3. The HSLDA located in Purcellville, VA, is "a nonprofit advocacy organization established to defend and advance the constitutional right of parents to direct the education of their children and to protect family freedoms." HSLDA, while slowly expanding its knowledge base and contacts in the international arena, focuses principally on the legal environment within the United States and its impact on parental rights and homeschooling.

4. See *State Laws*, HOME SCHOOL LEGAL DEFENSE ASSOCIATION, <http://www.hslda.org/laws/default.asp> (overviewing current laws and requirements in each of the fifty states) (last visited Nov. 6, 2013).

5. *Id.*

6. See generally Courtenay E. Moran, Note, *How To Regulate Homeschooling: Why History Supports The Theory Of Parental Choice*, 2011 U. ILL. L. REV. 1061, 1067-77 (2011).

7. The Supreme Court ruled in *Meyer v. Nebraska* that states may impose "reasonable regulations" regarding education, but those regulations may not unduly restrict an individual's Fourteenth Amendment liberty interest. *Meyer v. Nebraska*, 262 U.S. 390 (1923). A few years later, in *Pierce v. Society of Sisters* the Court held that states may not require parents to send their children to public schools, as parents' liberty interests secure their right "to direct the upbringing and education of children under their control." *Pierce v. Society of Sisters*, 268 U.S. 510, 534 (1925). The *Pierce* Court noted that parents, who "nurture" and "direct" the child's "destiny," have "the right, coupled with the high duty, to recognize and prepare him for additional obligations." *Id.* at 535. In *Pierce*, the Court also noted that the child is "not the mere creature of the state." *Id.* In *Wisconsin v. Yoder*, a case involving Amish parents convicted of violating Wisconsin's compulsory attendance law, the Court held that although the State may enforce "reasonable regulations" over the "control and duration of basic education," a "balancing process" was required to protect parents' freedom of religion and their interest in the "religious upbringing and education of their children." *Wisconsin v. Yoder*, 406 U.S. 205-249 (1972). *Troxel v. Granville* states that "the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children." *Troxel v. Granville*, 530 U.S. 57, 66 (2000).

8. Tanya K. Dumas, Sean Gates & Deborah R. Schwarzer, *Evidence For Homeschooling: Constitutional Analysis In Light Of Social Science Research*, 16 WIDENER L. REV. 63, 67 (2010).

would infringe on ‘the historical and fundamental right of parents to have their children free from standardization of their education.’<sup>9</sup>

### *Technology: A Game-Changer*

Like the changes in the legal environment, developments in technology have reshaped the homeschooling landscape dramatically. The internet expanded the possibilities for homeschooling families not only in terms of access to information, resources, and curriculum,<sup>10</sup> but also in terms of access to peers, support, and expert advice.<sup>11</sup>

Parents now can find, review, and order curricular materials with ease. They can seek out curriculum reviews not only from the local support group but also from homeschooling parents and experts anywhere. They can delegate course instruction to another educator, through online instruction,<sup>12</sup> complementing the use of other non-parental instruction such as co-operatives or tutors. Students can communicate with educators, tutors, and peers using secure chat rooms, Skype, and instant messaging, providing opportunities for both academic instruction and peer discussions. New resources and curriculum materials use audio and video technology—podcasts, webcasts, digital microscopes, video streaming of documentaries and educational videos—as well as hands-on resources, helping parents to incorporate the latest methods of instruction into learning environments most suited to their children’s needs.<sup>13</sup> Smartphones and social media also help homeschooled students create a rich social network beyond their geographical area in addition to their in-person social interactions.

### *By the Numbers: The “Fastest Growing Sector” of Education*

The changing legal landscape and explosive technological

---

9. Khianna Bartholomew, *Avoiding Implicit Acceptance of Bigotry: An Argument for Standardized Testing of Homeschooled Children*, 92 CORNELL L. REV. 1177, 1179 (2007) (quoting Christopher J. Klicka, *The Right To Home School: A Guide To The Law On Parents’ Rights In Education*, 1–27 (3d ed. 2002)).

10. See generally, CAMPBELL RINKER, 2013 HOMESCHOOL MARKET REPORT (available from the marketing research firm of Campbell Rinker, 25600 Rye Canyon Road, Suite 202, Valencia, CA 91355).

11. For summaries of research relating to the characteristics, educational choices, and social interactions of homeschooling families, see Robert Kunzman & Milton Gaither, *Homeschooling: A Comprehensive Survey of the Research*, 2 OTHER EDUC.: THE J. OF ALT. EDUC., 1, 4,12, (2013). See generally, the descriptions of homeschooling analyzed in Dumas, *supra* note 8.

12. According to Campbell Rinker’s 2013 *Homeschool Market Report*, homeschooling families spend 66% of their instructional time using traditional curriculum and 33% of their time using electronic curriculum resources (including spending 14% of their time using purchased software, 9% using online courses, 7% on Internet-based software, and 3% of their time using downloadable Apps). CAMPBELL RINKER, *supra* note 10.

13. See GIFTED HOMESCHOOLERS FORUM, <http://giftedhomeschoolers.org/resources/favorite-things/> (last visited Nov. 6, 2013) (sample of the variety of curricular resources available).

developments have made it easier for more and more Americans to leave traditional educational pathways and embark on the homeschooling journey. No longer the “fringe phenomenon”<sup>14</sup> educational approach of a small, quirky group of ‘un-schoolers,’<sup>15</sup> homeschooling has become a “legitimate educational option,”<sup>16</sup> for millions of children whose families reflect a wide variety of motivations, methods, and needs.<sup>17</sup>

The most recent estimates place the number of homeschoolers at around two million students,<sup>18</sup> reflecting a sharp trajectory upwards from the estimated 850,000 children homeschooled in 1999<sup>19</sup> and the estimated 1,096,000 who were homeschooled in 2003.<sup>20</sup> The current figure (two million homeschoolers) represents roughly 4% of the overall school-age population.<sup>21</sup>

For perspective, consider that the number of children currently homeschooled in the United States roughly equals the number enrolled in Catholic schools, which was 2,001,740 students in 2012-2013,<sup>22</sup> and nearly

14. Kimberly A. Yuracko, *Education off the Grid: Constitutional Constraints on Homeschooling*, 96 CAL. L. REV. 123, 124 (2008); see also Robert Reich, *More Oversight is Needed*, THE N.Y. TIMES, Jan. 5, 2011, available at <http://www.nytimes.com/roomfordebate/2011/01/04/do-home-schoolers-deserve-a-tax-break/more-oversight-is-needed> (describing the early years of homeschooling as a “fringe phenomenon” in numerous writings, most recently in this essay).

15. John Holt, one of the pioneers of modern homeschooling, encourages “unschooling,” the belief that children learn best through interest-driven learning and organic educational opportunities, rather than through structured, uniform curriculum materials. See JOHN HOLT GSW, <http://www.holtgws.com/index.html> (last visited Nov. 6, 2013).

16. Kunzman & Gaither, *supra* note 11, at 6.

17. For a thorough summary of the history of homeschooling and its place in the modern American educational fabric, see Moran, *supra* note 6. See also THE NATIONAL CENTER FOR EDUCATION STATISTICS, THE CONDITION OF EDUCATION 2009 14-15 (2009), available at [http://nces.ed.gov/programs/coe/indicator\\_hsc.asp](http://nces.ed.gov/programs/coe/indicator_hsc.asp).

18. Kunzman & Gaither, *supra* note 11, at 8 (authors believe the National Household Education Survey (2007) showing 1.5 million homeschooled children is an undercount and after factoring in steep year-to-year increases the authors estimate two million homeschoolers in 2013); see also NATIONAL HOME EDUCATION RESEARCH INSTITUTE, <http://www.nheri.org/> (last visited Nov. 7, 2013).

19. NATIONAL CENTER FOR EDUCATION STATISTICS, HOMESCHOOLING IN THE UNITED STATES: 1999 3 (Stacey Bielick et al. eds., 2001), available at <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2001033>; see also NATIONAL CENTER FOR EDUCATION STATISTICS, ISSUES RELATED TO ESTIMATING THE HOME-SCHOOLED POPULATION IN THE UNITED STATES WITH NATIONAL HOUSEHOLD SURVEY DATA (Robin R. Henke et al. eds., 2000), available at <http://nces.ed.gov/pubs2000/2000311.pdf> (discussing possible sources of statistical error in early methods used to estimate the number of homeschooled students).

20. NATIONAL CENTER FOR EDUCATION STATISTICS, HOMESCHOOLING IN THE UNITED STATES: 2003 1 (Dan Princiotta & Stacey Bielick eds., 2006), available at <http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2006042>.

21. Kunzman & Gaither, *supra* note 11, at 8.

22. National Catholic Educational Association, United States Catholic Elementary and Secondary Schools 2012-2013: The Annual Statistical Report on Schools, Enrollment, and Staffing, <http://www.ncea.org/data-information/catholic-school-data> (last visited Nov. 15, 2013)

equals the number enrolled in charter schools, estimated at 2.3 million students in 2012-2013.<sup>23</sup> The homeschooling trend shows no signs of abating. In fact, “the number of primary school kids whose parents choose to forgo traditional education is growing seven times faster than the number of kids enrolling in K-12 every year.”<sup>24</sup> Critics of homeschooling also note its growing popularity. For example, Stanford Political Science and Education Professor Rob Reich observes, “[h]ome schooling has gone mainstream in the United States . . . and is widely considered the fastest growing sector of K-12 schooling.”<sup>25</sup>

### *Growth and Technology Beget Professionalism*

As the homeschooling movement has changed, an increased emphasis on professionalism has emerged. As the number of innovative and rigorous curriculum options has mushroomed,<sup>26</sup> the number of tutors, seminars, conferences, and consultants<sup>27</sup> has multiplied across the country, encouraging parents to find assistance from experts or develop new areas of expertise themselves.

The burgeoning homeschooling market has also spurred development of new homeschooling products—from planners, storage units, and home organization tools, to computer games and digital drills for math, geography, and history—to help parents teach their children and manage family life more effectively. Networks of homeschoolers, both real and virtual, have sprung to life, organizing themselves not only by geography or faith, but also by educational philosophy or curricula.<sup>28</sup>

### *Homeschoolers: Diverse Motivations, Common Conviction*

So who homeschools today? “Berkeley unschoolers who disdain structure, Christian evangelicals who disdain secularism, and suburban

---

23. National Alliance for Public Charter Schools, *Back to School Tallies: Estimated Number of Public Charter Schools & Students, 2012-2013* (2013), available at [http://www.publiccharters.org/data/files/Publication\\_docs/NAPCS%202012-13%20New%20and%20Closed%20Charter%20Schools\\_20130114T161322.pdf](http://www.publiccharters.org/data/files/Publication_docs/NAPCS%202012-13%20New%20and%20Closed%20Charter%20Schools_20130114T161322.pdf)

24. Julia Lawrence, *Number of Homeschoolers Growing Nationwide*, EducationNews.org (May 21, 2012), <http://www.educationnews.org/parenting/number-of-homeschoolers-growing-nationwide/>, discussing Brian Ray, *2.04 Million Homeschool Students in the United States in 2010* 3, National Home Education Research Institute (2011), available at <http://www.nheri.org/HomeschoolPopulationReport2010.pdf> (predicting “a notable surge in the number of children being homeschooled in the next 5 to 10 years”).

25. Reich, *supra* note 14.

26. Kunzman & Gaither, *supra* note 11, at 14-15.

27. See INSTITUTE FOR EXCELLENCE IN WRITING, <http://www.excellenceinwriting.com/> (last visited Apr. 22, 2013) (making available the products, webinars, and seminars, conferences, and consulting).

28. See Kunzman & Gaither, *supra* note 11, at 15; see generally Dumas et al., *supra* note 8.

technophiles who download Khan Academy tutorials: this is the picture of homeschooling in 2011,” says Stanford Professor Rob Reich.<sup>29</sup>

His observation paints a vivid image of diversity within homeschooling—diversity that extends to motivation as well as family characteristics. The 2007 U.S. Department of Education National Center for Education Statistics lists the following “most important” reasons why families choose to homeschool:

- To provide religious or moral instruction 36%
- Concern about school environment 21%
- Dissatisfaction with academic instruction 17%
- Other reasons (family time, finances, travel, distance) 14%
- To provide a nontraditional approach to child’s education 7%
- Child has special needs 4%
- Child has a physical or mental health problem 2%<sup>30</sup>

Prof. Robert Kunzman and Prof. Milton Gaither, in their 2013 landmark survey of homeschooling research, offer the insight that many parents homeschool for an important, often overlooked, reason: to “forg[e] an alternative model of the family [distinct] from what is typical in contemporary U.S. culture.”<sup>31</sup> These homeschooling parents understand homeschooling and education more broadly, as “embedded in the even broader project of parenting.”<sup>32</sup> Even though parents may differ on whether they homeschool primarily for positive reasons (to provide an advantage)<sup>33</sup> or negative reasons (to avoid perceived problems) Kunzman and Gaither found that in all cases parents heavily supported the notion of parental responsibility.

While some homeschool parents see themselves as part of a broader social movement in direct opposition to . . . institutional schooling, many

29. Reich, *supra* note 14.

30. THE NATIONAL CENTER FOR EDUCATION STATISTICS, *supra* note 17.

31. Kunzman & Gaither, *supra* note 11, at 4, 9 (Robert Kunzman is an Associate Professor and Assistant Dean for Teacher Education at Indiana University and Milton Gaither is an Associate Professor of Education at Messiah College in Pennsylvania).

32. *Id.*, at 10.

33. Parents of gifted children homeschool so their children will better develop their gifts, whether intellectual, artistic, or athletic. For example, homeschooling provided the time and flexibility for standout athletes, like Olympic Swimmer Katie Hoff, and artists, such as ballerina Keenan Kampa (the first American to join the famed Russian Mariinsky ballet), to perfect their talents and pursue their dreams. See Sal Ruibal, *Elite take home-school route*, USA TODAY (June 7, 2005), [http://usatoday30.usatoday.com/sports/preps/2005-06-07-home-school-cover\\_x.htm](http://usatoday30.usatoday.com/sports/preps/2005-06-07-home-school-cover_x.htm) (last visited Nov. 7, 2013); see also Catherine Pawlick, *American tours U.S. with Mariinsky Ballet*, SFGATE (Oct. 9, 2012), <http://www.sfgate.com/performance/article/American-tours-U-S-with-Mariinsky-Ballet-3922397.php> (last visited Nov. 7, 2013).

others simply view their choice as an alternative approach to educating their children. . . . Perhaps the most consistent ideological thread, one that crosses demographics of all kinds, is the conviction among homeschool parents that they should have sole or at least primary responsibility for the education of their children.<sup>34</sup>

Critics perhaps too easily equate<sup>35</sup> “homeschooling” with conservative Christian homeschoolers, and too often assume<sup>36</sup> that the motivations of Christian homeschoolers are reducible to one: religion. Not infrequently, they frame their objections to homeschooling in terms of fears that the religious convictions of Christian homeschoolers will lead to poor results for their children.<sup>37</sup>

Interestingly, politically liberal homeschoolers object to the tendency of homeschooling critics to ignore the variety of motivations driving homeschooling or to minimize the fact that “homeschooling motivations shift and develop over the time,”<sup>38</sup> even from one year to the next, as parents discover new and unanticipated benefits. The common thread uniting most homeschoolers is their “conviction that the full responsibility for our children’s education properly rests with the family, rather than with public officials.”<sup>39</sup>

---

34. Kunzman & Gaither, *supra* note 11, at 10 (citations omitted); see also Cheryl Fields-Smith & Meca Williams, *Motivations, Sacrifices, and Challenges: Black Parents’ Decisions to Home School*, 41 URBAN REV. 4, 369, 387 (2009), available at <http://link.springer.com/article/10.1007%2Fs11256-008-0114-x#page-1>.

35. Yuracko, *supra* note 14, at 126-27 (“[W]hile homeschoolers themselves continue to be a diverse lot, the homeschooling movement has become defined and driven by its conservative Christian majority.”).

36. Professor Catherine Ross arbitrarily reclassifies homeschoolers who homeschool out of concern for the school environment as evincing a presumptively religious motivation. Thus she asserts that, “[t]he vast majority of homeschoolers, however, are white and Christian, and they choose to homeschool because of their religious beliefs and their desire to protect their children from conflicting messages.” Ross, *supra* note 2, at 996-97 (citations omitted).

37. While Rob Reich expresses reservations about homeschooling in general, he too reserves his strongest criticisms for religiously motivated homeschoolers who resist “value pluralism” (i.e. the notion that competing values are equally valid, and no one is better than another). Rob Reich, WHY HOMESCHOOLING SHOULD BE REGULATED 16 (Bruce S. Cooper, ed. 2005), available at <http://www.stanford.edu/group/reichresearch/cgi-bin/site/wp-content/uploads/2011/01/Reich-WhyHomeSchoolsShouldBeRegulated.pdf>. But see, Nicky Hardenbergh, *Through the Lens of Homeschooling: A Response to Michael Apple and Rob Reich* 3 (2004), available at <http://www.otherwiseinstructed.com/docs/throughthelensApril2004.pdf>. Hardenbergh, who relates her exchanges with Professor Reich in preparation for the joint panel, describes Reich’s concerns that religious homeschoolers may undermine the common good. Professors Yuracko and Ross express equally strong concerns. See discussion, *infra*, Section II.

38. Hardenbergh, *supra* note 37, at 3.

39. Hardenbergh, *supra* note 37, at 7. Stanford University Professor Steven Mitchell makes similar observations in his 2003 book, *Kingdom of Children: Culture and Controversy in the Homeschooling Movement*, describing the homeschooling movement as a place where progressive and Christian conservative philosophies unite behind a shared belief in the family’s right to nurture and protect their children’s childhoods. STEVEN MITCHELL, KINGDOM OF CHILDREN:

*Changes in Public Perception: From Suspicion to Qualified Support*

As homeschooling moved from the perceived “fringe” to the mainstream, public perception changed accordingly. When only a few families homeschooled, few folks in the rest of the community had first-hand experience with homeschoolers. Homeschooling was, by definition, off-beat, odd, and suspect. In 1988, the National Education Association (NEA) pronounced its disapproval: “[h]omeschooling cannot provide . . . a comprehensive education experience.”<sup>40</sup> That position remains unchanged, in spite of the phenomenal growth of homeschooling.<sup>41</sup>

In general, early concerns about homeschooling centered around two questions: (1) would homeschooled children learn well or fall behind on core subjects like math, reading, writing, and the sciences; and (2) the big question, “what about socialization,” would homeschooled children learn to function socially and in the civic arena?

The passage of time has answered both of those concerns, at least to some degree.

Homeschooling is now a familiar part of the educational tapestry in America. It is likely that a significant portion of the population either knows someone who homeschools or at least knows something about homeschooling. Teachers, neighbors, social workers, and doctors are more likely to know homeschooling families and be somewhat familiar with homeschooling practices. Colleges, businesses, and communities have adapted to the presence of homeschoolers, fashioning practices that include

---

CULTURE AND CONTROVERSY IN THE HOMESCHOOLING MOVEMENT (Princeton Univ. Press, 2003). Similarly, Cheryl Fields-Smith and Meca Williams note that African-American homeschooling parents evinced an “[u]nwavering commitment to assume responsibility for their child’s education—but suffered criticism for leaving others behind.” Fields-Smith & Williams, *supra* note 34, at 387.

40. Home School Legal Defense Association, *NEA, NAESP, and NASBE Adopt Positions on Home Schooling*, 4 HOMESCHOOL COURT RPT. 3 (1988), available at <http://www.hslda.org/courtreport/V4N3/V4N310.asp>.

41. The 2012 NEA Handbook evinces a continuing hostility to homeschooling in its policies towards charter schools and distance learning as well. The NEA takes a position that charter schools should not allow homeschoolers to enroll on a part-time basis, on the grounds that homeschooling “disregard[s] the important socialization aspect of public education, [and fails to] serve the public purpose of promoting a sense of community.” THE NATIONAL EDUCATION ASSOCIATION, HANDBOOK 2012 409 (2012), available at <http://www.nea.org/assets/docs/2012-NEA-Handbook-Policy-Statements.pdf>. Similarly, the NEA opposes allowing students to engage in “distance learning” as an alternative to traditional education because, “in addition to providing instruction in academic subjects, a traditional education in a public elementary/secondary school is designed to prepare students for citizenship by instilling certain fundamental democratic values; to expose students to wide-ranging political, religious, and cultural views; to teach them tolerance and respect for those different from themselves; and to help students develop a sense of community.” The NEA’s declarations presume, without citing evidence, that homeschooling fails to fulfill those educational purposes. *Id.* at 416.

homeschoolers in a variety of ways.<sup>42</sup>

The media also has shaped public perceptions of homeschooling, often in a positive direction,<sup>43</sup> highlighting the homeschooling roots of extraordinary achievers who have placed well in local or national spelling bees, won Olympic medals, or scored extremely well on the SATs.<sup>44</sup> Although these standouts do not represent the typical homeschooler, media coverage of their achievements burnishes the image of homeschooling.

More importantly, although the research data on the academic outcomes related to homeschooling is thin, and suffers in some instances from selective sampling, initial returns look fairly good: homeschooling generally seems to deliver an adequate education and, in many instances, a high-quality education.<sup>45</sup> Kunzman and Gaither's recent survey of existing

---

42. Businesses that extend teacher discounts for purchases of educational materials routinely extend those discounts to homeschooling parents, libraries and community centers offer mid-day classes or exercise programs targeted to homeschoolers, and sports leagues routinely list homeschooling in the answer field when asking participants to identify the school they attend. See, e.g., *Teacher Discounts and Home School Educator Discounts*, THE FRUGAL GIRLS, <http://thefrugalgirls.com/teacher-discounts> (last visited Nov. 7, 2013)(summarizing the list of homeschool discounts at major retailers); see also YMCA, <http://www.ymcadc.org/branch/?bid=09> (last visited Nov. 7, 2013)(demonstrating the inclusion of homeschool classes offered at a local YMCA); see also *Fairfax Homeschool Football*, MAXPREPS (Nov. 6, 2012), [http://www.maxpreps.com/high-schools/fairfax-homeschool-kings-\(fairfax,va\)/football/home.htm](http://www.maxpreps.com/high-schools/fairfax-homeschool-kings-(fairfax,va)/football/home.htm) (posting about the fast-developing homeschool sports teams that have joined sports leagues and associations in order to compete against traditional schools).

43. At the same time some media outlets continue to frame homeschoolers in a negative light, at times because of their political activism or moral stances. See, e.g., John Eligon, *One Coalition Stays True to Todd Akin: Homeschoolers*, N.Y. TIMES, Sept. 25, 2012, available at [http://www.nytimes.com/2012/09/26/us/politics/todd-akin-counts-on-support-of-homeschoolers.html?\\_r=0;\\_see](http://www.nytimes.com/2012/09/26/us/politics/todd-akin-counts-on-support-of-homeschoolers.html?_r=0;_see) also Russell Shorto, *What's Their Real Problem with Gay Marriage? (It's the Gay Part)*, N.Y. TIMES MAGAZINE, June 19, 2005, available at <http://www.nytimes.com/2005/06/19/magazine/19ANTIGAY.html?pagewanted=all> (linking homeschoolers with activism against same-sex marriage).

44. See, e.g., *Home-Schooled Student Wins Spelling Bee*, NATIONAL PUBLIC RADIO, ALL THINGS CONSIDERED (June 1, 2007), <http://www.npr.org/templates/story/story.php?storyId=10634309>; Wayne Allyn Root, *How my child went from home school to Harvard and yours can, too*, FOX NEWS (Jan. 26, 2012), <http://www.foxnews.com/opinion/2012/01/26/how-my-child-went-from-home-school-to-harvard-and-yours-can-too/>; Charisse Van Horn, *Homeschooled Olympic athlete Gabby Douglas to talk 'life after gold'*, EXAMINER.COM (Aug. 17, 2012), <http://www.examiner.com/article/photos-homeschooled-olympic-athlete-gabby-douglas-to-talk-life-after-gold>.

45. Kunzman & Gaither, *supra* note 11, at 16-19. It is widely acknowledged among scholars that rigorous research exploring the academic achievement of homeschoolers, as well as the factors that are more or less likely to produce academic gains through homeschooling, is scarce. Scholars are moving to fill that gap and to conduct well-designed studies that shed light on the academic outcomes of homeschooling. See generally Milton Gaither, HOMESCHOOLING RESEARCH NOTES BLOG (Mar. 29, 2013), <http://gaither.wordpress.com/>. Testing statistics, which tend to show homeschoolers scoring significantly higher than the national average, generally have not been obtained by random sampling and for the most part do not control for variables such as marital status, race, and levels of parental education. At the same time, they do offer evidence that, for many families, homeschooling delivers on its promise of a solid education.

research on homeschooling offers several tentative conclusions: they note that there appears to be “at least a modest homeschooling effect on academic achievement—namely that it tends to improve students’ verbal and weaken their math capacities.”<sup>46</sup> They argue that advanced verbal abilities reflect homeschooling’s “conversational learning style,” and the “significant time reading and being read to” but that homeschooling families might not give math “the same priority.”<sup>47</sup> Family background plays a strong role in testing results, they note. They caution that, in general, “homeschooling does not have much of an effect at all on student achievement once family background variables are controlled for.”<sup>48</sup>

Homeschooled students, however, seem more likely to succeed in college than the average student.<sup>49</sup> Colleges have been paying increasing attention to homeschooled students, crafting applications to reflect the homeschool experience, and sometimes actively recruiting them.<sup>50</sup>

In contrast to the spotty research on the academic outcomes associated with homeschooling, the “socialization” question has been well-studied with generally positive results.<sup>51</sup> Understood as the general ability to get along, navigate social situations, form friendships, participate in the community, and embrace civic responsibility, socialization is one area where homeschoolers, generally speaking, do well.<sup>52</sup> Kunzman and Gaither note that, “[t]he predominant view of this research is that the homeschoolers studied compare favorably to their conventionally-schooled counterparts across a range of social skills. . . . [T]hey do engage in extracurricular activities that provide opportunities for group interaction,

46. Kunzman & Gaither, *supra* note 11, at 17-18.

47. *Id.*

48. *Id.*

49. Lynn O’Shaughnessy, *Can Homeschoolers Do Well in College?*, CBSNEWS.COM (July 20, 2010), [http://www.cbsnews.com/8301-505145\\_162-37242551/can-homeschoolers-do-well-in-college/](http://www.cbsnews.com/8301-505145_162-37242551/can-homeschoolers-do-well-in-college/) (reporting on *The Journal of College Admissions’* study).

50. See Christine Foster, *In a Class By Themselves*, STANFORD MAGAZINE, Nov./Dec. 2000, available at [http://alumni.stanford.edu/get/page/magazine/article/?article\\_id=39384](http://alumni.stanford.edu/get/page/magazine/article/?article_id=39384) (describing Stanford’s “embrace” of and “special interest” in homeschoolers).

51. See generally Kunzman & Gaither, *supra* note 11, at 19. The authors explain that the first objection to homeschooling raised by family and friends is often, “What about socialization?” They go on to distinguish between two aspects of socialization, stating “[t]he first involves learning how to interact effectively in group settings and broader society, understanding its roles of behavior and social customs [and t]he second category involves navigating a range of social influences—parents, peers, local communities, broader society—in the formation of personal values, beliefs, and commitments.”

52. See generally *id.* at 19-21 (discussing other research, with a range of results, from one study that indicates that the social interactions of homeschoolers are similar in number to those of public school students, to another that suggests older homeschoolers are lonely at times, to others that report homeschoolers may be less influenced by peer relationships, but that independence from peers is not necessarily a negative outcome).

often participating at rates comparable to institutional schoolchildren.”<sup>53</sup> The social engagement is not transitory, but lasting. In adulthood, formerly homeschooled students are nearly twice as likely to be active in community service compared to adults who were not homeschooled.<sup>54</sup>

Over time, public confidence in homeschooling has risen, as it is perceived more favorably than public schools, though less favorably than private, parochial, or charter schools. According to a recent Gallup Poll, forty-six percent of Americans believe that homeschooling provides an excellent or good education, thirty percent say it does a “fair” job, fourteen percent say homeschooling does a poor job, and nine percent have no opinion.<sup>55</sup> While private, parochial, and charter schools are viewed more favorably than homeschooling, public schools fare the worst in public estimation: thirty-seven percent of Americans rate public schools as excellent or good, forty-two percent describe them as fair, and nineteen percent view public schools poorly.<sup>56</sup>

## II. SHIFTING PUBLIC CONVERSATIONS: FROM ADEQUATE ACADEMICS TO ‘PROGRESSIVE’ VALUES

Against this backdrop of change—as homeschooling stakes a favorable claim on public opinion and the number of homeschooling families soars—the public conversations about homeschooling have changed as well. These conversations, however, increasingly reflect conflicts over values, ideologies, and worldviews more than they reflect differences over educational pedagogy, practice, or outcomes.<sup>57</sup> Progressive theorists have stepped up both criticisms of homeschooling and call for tighter state regulation of homeschooling.<sup>58</sup> Some of these scholars express concern less over whether homeschooled children learn to read, write, and do math

---

53. *Id.* at 19-20.

54. Dumas et al., *supra* note 8, at 81.

55. See *Education-Gallup Historical Trends*, GALLUP, <http://www.gallup.com/poll/1612/education.aspx#2> (last visited Nov. 7, 2013) (taking data from August 9-12, 2012).

56. *Id.*

57. See Kunzman & Gaither, *supra* note 11, at 21-23. The authors devote a section of their research survey to a discussion of “Socialization as Values Formation,” a broad topic that covers a wider range of scholarly research and observations than are pertinent to the limited parameters of this article.

58. My comments here focus on particular aspects of the arguments made by three homeschooling critics in particular, Professor Rob Reich, Professor Kimberly Yuracko, and Professor Catherine J. Ross, although several other scholars, such as Emory University Law Professor Martha A. Fineman, have expressed similar views. See MARTHA ALBERTSON FINEMAN, *IN WHAT IS RIGHT FOR CHILDREN? THE COMPETING PARADIGMS OF RELIGION AND HUMAN RIGHTS* 235 (Martha Albertson Fineman & Karen Worthington eds., 2009) (warning of “the risk that parents or private schools unfairly impose hierarchical or oppressive beliefs on their children”).

adequately, and moreover whether homeschooling instills “illiberal”<sup>59</sup> attitudes, produces children who are “ethically servile”<sup>60</sup> to their parents, or fails to produce children committed to the “constitutional norm of tolerance.”<sup>61</sup>

The common thread running through these criticisms seems to be the belief that the children of religious, usually Christian, homeschoolers will be less capable of functioning as autonomous citizens in a democratic society and less committed to ideals of “diversity”<sup>62</sup> and “tolerance,”<sup>63</sup> as defined by progressives.

In this space, it is not my purpose to undertake a full analysis of the many constitutional issues inherent in the calls for increased regulation of homeschooling.<sup>64</sup> I address instead some similar, troubling aspects of the work of three scholars, all strong critics of homeschooling: Professor Rob Reich of Stanford University, Professor Kimberly A. Yuracko of Northwestern University Law School, and Professor Catherine J. Ross of George Washington University Law School.<sup>65</sup> Their general arguments for stringent regulation can be countered by strong constitutional arguments based on parents’ rights, religious freedom, and free speech. My aim here, however, is a more limited one: to argue that their work relies on presumptions based on ideology rather than on empirical data and that children, and society, will be served better by encouraging more research rather than engaging in an ideological rush to judgment. My analysis has two parts: the first examines examples in their work of factually-unsupported assumptions about homeschooling itself; the second highlights the lack of empirical data to support the supposed link between

59. Yuracko, *supra* note 14, at 173.

60. Reich, *supra* note 37, at 8.

61. Ross, *supra* note 2, at 991.

62. See Reich, *supra* note 37, at 6 (arguing that democracy protects freedom in order to engender diversity, including “value pluralism.” He asserts that “protecting the freedom of individuals is the main engine of diversity—diversity of religious belief, diversity of belief in general,” and that “one of the salutary consequences of a liberal democracy that protects individual freedom is that the choices individuals make about how to lead their lives lead to social diversity, or value pluralism.”).

63. See Ross, *supra* note 2, at 1005. The author cites Amy Gutmann and describes tolerance as the “core value” behind the “three basic principles” of democracy: civic equality, liberty, and opportunity. Amy Gutmann, *Civic Education and Social Diversity*, 105 ETHICS 557, 562 (1993). The author also argues for selective tolerance, asserting that tolerance should not be extended to “intolerant homeschoolers [who] inculcate hostility to difference in their children.” *Id.*

64. Each scholar (Reich, Ross, and Yuracko) advances different reasons and legal theories to justify stringent homeschool regulations, but in general, their approaches raise serious constitutional issues around parental rights, compelled speech, and religious freedom.

65. Rob Reich is an Associate Professor of Political Science at Stanford University. Kimberly A. Yuracko is a Professor of Law at Northwestern University School of Law. Catherine J. Ross is a Professor of Law at George Washington University School of Law.

homeschooling and certain presumed harms.

### *Unsupported Assumptions About the Homeschooling Environment*

All three theorists, to a significant degree, rest their arguments in favor of strong state control over homeschooling on the unsupported assumption that homeschooled children experience very little *exposure* to the real world, diverse populations, competing truth claims, or prevailing “civic messages.”<sup>66</sup> They assume also that homeschooled children have little opportunity to *engage* beliefs and values contrary to those of their parents.

Each of the three scholars expresses these assumptions in somewhat different language. Professor Reich, for example, asserts that homeschooled children have “little or no exposure to competing ideas or interaction with people whose convictions differ from their parents.”<sup>67</sup> Specifically, he fears that homeschool children will not be exposed to or engage “value pluralism,” and instead will be in “a learning environment in which the values of the parents are replicated and reinforced in every possible way.”<sup>68</sup> Similarly, Professor Ross assumes that “many” homeschooling families subscribe to “absolutist beliefs” and reject “what they disparagingly view as ‘relativism.’”<sup>69</sup> These “intolerant homeschoolers,” Ross asserts, will “insist on a closed system of communication, objecting to their children’s hearing or reading about discordant ideas or beliefs.”<sup>70</sup> As a result, these children will be “sheltered” from “civic messages [that] serve shared social goals and also allow children to choose their own identities as they mature.”<sup>71</sup> Professor Yuracko argues along the same lines: “[h]omeschooling parents make all the decisions about what educational materials and messages their children will be exposed to,” and, as a result, children have no “exit options,” no “power to bypass their parents’ educational decisions and pursue different educational paths.”<sup>72</sup> She hones in on the presumed beliefs of “sexist homeschooling” parents, positing a culture of “female subordination,” manifest in “rampant forms of sexism” which, she argues,

---

66. Ross, *supra* note 2, at 1006.

67. Reich, *supra* note 14, at 8.

68. *Id.*

69. Ross, *supra* note 2, at 1006.

70. *Id.*

71. *Id.*

72. My analysis here is a limited one and does not reach other seriously problematic aspects of Yuracko’s argument. Her assertion that the state has the primary authority over a child’s education and merely delegates some of that authority to parents, or her general argument that states have the right to regulate the beliefs and conduct of homeschooling families so as to prohibit “sex-based educational inequality within families,” or her proposed remedies, which include requiring “illiberal” homeschooling families who teach “idiosyncratic and illiberal beliefs and values” to “label” those beliefs as counter-Enlightenment. See Yuracko, *supra* note 14, at 146, 183.

results in “severe under-education of girls by homeschooling parents.”<sup>73</sup> She contrasts the beliefs of “illiberal” homeschooling parents with a liberal society’s “commitments to rationality and autonomy.”<sup>74</sup>

*Are These Assumptions Accurate?*

These scholars not only fail to offer credible data to support their general assumptions that homeschooling families are typified by narrow, inadequate intellectual and educational patterns,<sup>75</sup> they also fail to consider existing research that casts doubt on the accuracy of their assumptions.<sup>76</sup>

As described earlier in this article, the practice of homeschooling has undergone significant changes over the past several decades. The homeschooling lifestyle, which reflects a wide variety of methods and approaches, provides important context for assessing claims about the breadth of ideas and range of values to which homeschooled children are exposed and with which they engage.

The critics fuss over the content of homeschooling curricula, but fail to acknowledge one of the defining aspects of homeschooling: learning transcends particular books or curriculum packages, occurs beyond the confines of the traditional eight-hour school day, and engages the ideas of countless people in addition to parents.<sup>77</sup> In one qualitative study of the experiences of African-American homeschooling families, researchers found that homeschooling allowed the parents to introduce their children to richer, more varied learning opportunities than they experienced in public school.<sup>78</sup> These families “sought home schooling in order to foster their children’s thinking abilities, rather than just improving test scores.”<sup>79</sup> Rather

73. *Id.* at 132-61 (admitting that “it is impossible to know how often and to what extent such [sexist] beliefs lead to significantly inferior substantive educations for homeschooled girls”).

74. *Id.* at 184.

75. See Yuracko, *supra* note 14. Yuracko builds her argument—that some unknown number of homeschooling families conduct “sexist homeschooling”, *id.* at 123,—on her personal judgment that “popular,” homeschooling websites and curricula evince “an ideology of female subservience and rigid gender role differentiation.” *Id.* at 156. Yuracko fails to define “popular” or provide other criteria justifying her decision to include particular resources for sampling. She does not offer any data on how many homeschooling parents actually use the resources she critiques or the larger context of how those resources might fit into an overall, wider educational plan. More importantly, she offers no insight into *how* homeschooling families might engage the ideas in those resources, and instead leapfrogs ahead to the presumption that because those resources exist, some unknown number of homeschoolers must be engaging in “sexist homeschooling.” *Id.*

76. See Kunzman & Gaither, *supra* note 11. While Kunzman and Gaither’s summary of homeschooling research was published subsequent to the critics’ writings, much of the underlying homeschool research was published and available to the critics, who considered it selectively or not at all.

77. Dumas et al., *supra* note 8, at 70-71.

78. See Fields-Smith & Williams, *supra* note 34.

79. *Id.* at 379.

than narrowing their worlds, “[b]lack families in this study reported that home schooling offered greater access to fully integrated educational experiences for their children.”<sup>80</sup>

No data suggests that homeschoolers educate their children in the reclusive silos imagined by critics.<sup>81</sup> As Kunzman and Gaither note in their survey of homeschooling research, homeschoolers use libraries, which house a wealth of ‘competing ideas,’ in far greater numbers than the average population.<sup>82</sup> In addition, “[h]omeschool families are consistently more involved in civic activities than public school families,” reflecting the homeschooling mindset that learning is not bounded by curriculum.<sup>83</sup> Moreover, as internet use and web exploration become integrated into the homeschooling day, particularly for older children, the opportunity for homeschooled children to engage opposing viewpoints multiplies.<sup>84</sup>

Other aspects of homeschooling counter the argument that homeschoolers receive limited exposure to competing ideas. For example, homeschoolers typically are involved in supportive networks, often incorporating cooperative learning and outside resources.<sup>85</sup> This suggesting that homeschoolers are likely to complement parent-provided instruction with additional learning opportunities.<sup>86</sup> In addition, homeschooled teens may enroll in community colleges at sixteen; surely a source of “competing ideas” and a place to encounter “value pluralism” or “civic messages” that run counter to their parents’ views.<sup>87</sup>

---

80. *Id.* at 377.

81. *See* Ross, *supra* note 2, at 1006 (claiming that homeschoolers “insist on a closed system of communication—objecting to their children’s hearing or reading about discordant ideas or beliefs”).

82. Kunzman & Gaither, *supra* note 11, at 15.

83. *Id.* at 23.

84. *Id.* at 15.

85. *See, e.g.,* Stefene Russell, *Homework: Home-schooled Kids Come Together* ST. LOUIS MAGAZINE, Mar. 2013, available at <http://www.stlmag.com/St-Louis-Magazine/March-2013/Homework-Home-Schooled-Kids-Come-Together/?s=ra>.

86. Kunzman & Gaither, *supra* note 11, at 15. *But see* Reich, *supra* note 37, at 8. However, Reich’s language suggests that if the learning environment “replicate[s] and reinforce[s],” the parents’ values (which a homeschooling support group or tutor selected by the parents might be expected to do), then the learning environment is still inadequate because it would be less likely to encourage autonomy. Applying the same principle raises the issue of whether the learning environment in a public school becomes similarly inadequate if a teacher or lesson reinforces parental values. Does a progressively-minded teacher who “engages” students being raised by progressive parents similarly undermine the students’ autonomy? What if all or most of the school’s teachers reinforce parental values? Reich’s framework suggests that students may be assumed to be autonomous only if they have been immersed in values opposed to their parents’ values or, if immersed in a system that reinforces parental values, if the student rejects those values.

87. *See, e.g.,* Kevin Simpson, *Aurora family uses home school, community college to launch 7 toward degrees*, THE DENVER POST, Mar. 10, 2013, available at [http://www.denverpost.com/news/ci\\_22757294/aurora-family-uses-home-school-community-college-launch-7](http://www.denverpost.com/news/ci_22757294/aurora-family-uses-home-school-community-college-launch-7); *High School*

Further, “more than half of homeschool parents send at least one of their children to a conventional school, and more than one-third of homeschooled children return to institutional schooling after the first year.”<sup>88</sup> Within the family itself, the homeschooled child is likely to encounter mainstream secular culture through the experiences of an institutionally-educated sibling, the family’s involvement in the community of the traditional school, and even their own transitions from one educational venue to another.

Finally, it defies common experience to suggest that homeschool children are completely cut off from outside sources of information. Televisions, beaming news and mainstream culture, are everywhere in our society, from gas stations to shopping malls to airports to doctors’ offices.

The critics also lack a factual basis for their assumption that homeschooling families fail to *engage* contrary beliefs and values. The political engagement of homeschooled children and parents *in opposition* to politically liberal beliefs and values strongly undercuts this argument. The HSLDA maintains an active, well-organized legislative alert system, mobilizing homeschool families to lobby in their states or in Congress against proposed legislation that may affect parental rights, homeschooling, or public morality.<sup>89</sup> *Mother Jones* reported on the political impact of “Generation Joshua, which trains home-schooled students to become political activists.”<sup>90</sup> Democratic activist Ed Kilgore recently lamented the organized activism of homeschoolers saying, they “play an outsized role in GOP politics,” and represent “a tiny but powerful activist minority.”<sup>91</sup> Further organizations on the conservative spectrum, especially on hot-

& *Home School Students*, NORTHERN VIRGINIA COMMUNITY COLLEGE, <http://www.nvcc.edu/future-students/admissions/current-high-school-students/index.html> (last visited Nov. 8, 2013). Community colleges, such as Northern Virginia Community College, often let home-schooled teens (ages 16 and over) take advantage of “dual enrollment,” allowing them to “earn college credit while still in high school.”

88. Kunzman & Gaither, *supra* note 11, at 16, (citing E.J. Isenberg, *What have we learned about homeschooling?*, 82 PEABODY J. EDUC. 387, 409 (2007)). Kunzman and Gaither add that Isenberg found “somewhat lower” turnover rates among “religiously motivated families.” *Id.* at 9.

89. See “e-lert” service, HSLDA <http://www.hsllda.org/elert/> (last visited Apr. 26, 2013). Homeschoolers mobilized, for example, to fight the U.N. Convention on the Rights of Persons with Disabilities out of concern that it would limit the rights of parents to homeschool a child with disabilities; see also *Homeschoolers emerge as Republican foot soldiers*, ACCURACY IN MEDIA NEWSWIRE, Oct. 3, 2011, available at <http://www.aim.org/newswire/homeschoolers-emerge-as-republican-foot-soldiers/> (characterization of homeschoolers as “foot soldiers” for Republican candidates who share their moral views).

90. See Tim Murphy, Michele Bachmann’s Child Army, MOTHER JONES, July 19, 2011, available at <http://www.motherjones.com/politics/2011/07/michele-bachmann-home-school-fundraising>.

91. Ed Kilgore, *The Power of the Homeschool Lobby*, WASHINGTON MONTHLY, Dec. 4, 2012, available at [http://www.washingtonmonthly.com/political-animala/2012\\_12/the\\_power\\_of\\_the\\_homeschooler041571.php](http://www.washingtonmonthly.com/political-animala/2012_12/the_power_of_the_homeschooler041571.php).

button social issues, offer special outreach and advocacy training programs<sup>92</sup> to homeschool students, covering topics such as “Abortion Apologetics” and “Sexual Risk Avoidance.”<sup>93</sup>

In light of the political activism that characterizes the homeschool community, it is not credible to assert that homeschooled children fail to engage ideas, values, and beliefs that oppose their parents’ values. The real issue for progressives seems to be *how* homeschooling families are likely to engage the ideas and values with which they disagree. Given their religious and political beliefs, conservative or religiously-oriented homeschooling parents may indeed present ‘progressive’ values and beliefs in a negative light and take pains to prepare their children, with facts and arguments, to counter those progressive values and beliefs. But such is the dynamic of a free society that shuns state-imposed viewpoints or viewpoint discrimination and respects the free exercise of religion.<sup>94</sup>

Progressives’ criticisms seem to boil down to little more than a complaint that homeschooling families do not present opposing beliefs and values in a *favorable* light. The proposed remedies seem to favor a government-mandated platform, through mandated curriculum or testing, designed to ensure that progressives’ beliefs and values are presented in a positive light, creating the opportunity to *persuade* homeschooled children to abandon their parents’ beliefs and values.

Reich, for example, insists that minimal state regulation should require “curriculum” that would “introduce students to value pluralism,” a belief system contrary to some parents’ beliefs in absolute truth.<sup>95</sup> Ross holds that “absolutist beliefs” are incompatible with the “constitutional norm of tolerance” and suggests that the state should be willing to impose “mandatory curricular requirements,” promoting tolerance and diversity.<sup>96</sup> She argues that “absolutist” beliefs “have no place in the public arena, including public schools,”<sup>97</sup> and by extension, in homeschools, “at least during the portion of the day they claim to devote to satisfying the

---

92. See, e.g., Kristan Hawkins, *New High School Pro-Life Initiative Launched*, STUDENTS FOR LIFE BLOG (Mar. 21, 2013), <http://studentsforlife.org/category/blog/>. Students for Life, an organization that proposes a pro-life message on college campuses and through the media, and aims to “Abolish Abortion in our Lifetime,” has launched “Students for Life High School and Homeschool new outreach program” which provides “trainings on topics such as: Abortion Apologetics, Leadership, Sidewalk Counseling, and Sexual Risk Avoidance,” and helps students “start pro-life groups at high schools and in home school communities.” See generally STUDENTS FOR LIFE OF AMERICA, <http://highschool.studentsforlife.org/>.

93. Hawkins, *supra* note 92.

94. A full-throated defense of the free speech and religious liberty arguments against any or some state regulation of homeschoolers is beyond the scope of this article.

95. Reich, *supra* note 37, at 16.

96. Ross, *supra* note 2, at 1008.

97. *Id.* at 1006.

compulsory schooling requirement.”<sup>98</sup> She likens the state capacity to “limit the ability of intolerant homeschoolers to inculcate hostility to difference in their children”<sup>99</sup> to state authority to de-credential a “radical madrassa”<sup>100</sup> that encourages suicide bombings or to override parental objections, based on “religiously-based belief in racial segregation,” to integrated schools.<sup>101</sup> Spurred by ideology, Ross hurtles past “absolutist views” as if they were mere footnotes to the modern stream of intelligent thought. These “absolutist views” still form the core of Catholic teachings<sup>102</sup> and while the majority of American adults approaches morality through a relativistic lens, a significant percentage still adheres to “absolutist views.”<sup>103</sup> To categorize the belief in absolute truth as a mindset that somehow cripples individual freedom or undermines democratic values,<sup>104</sup> ignores a historical record that demonstrates otherwise.<sup>105</sup> Ross insists, however, that when parents reject

98. *Id.* at 1005.

99. *Id.* at 2005.

100. *Id.* at 2007.

101. *Id.* at 1009.

102. The Catholic faith has long insisted on the belief in absolute truth and Pope Benedict addressed this squarely in a homily opposing the “dictatorship of relativism.” His Eminence Card. Joseph Ratzinger, Dean of the College of Cardinals, Homily Opposing the “Dictatorship of Relativism” (Apr. 18, 2005).

103. Barna Group research found that, “Nearly half of all [over 40s] said they view moral truth as absolute, but only three out of 10 [under 40s] embraced the concept of absolute truth. Two-thirds of those over 40 said humans should determine what is right and wrong morally by examining God’s principles; less than half of Busters felt this way. Instead, nearly half of Busters said that ethics and morals are based on ‘what is right for the person,’ compared with just one-quarter of pre-Busters.” *A New Generation of Adults Bends Moral and Sexual Rules to Their Liking*, BARNAL GROUP (Oct. 31, 2006), <http://www.barna.org/barna-update/article/13-culture/144-a-new-generation-of-adults-bends-moral-and-sexual-rules-to-their-liking>; see also *Americans are Most Likely to Base Truth on Feelings*, BARNAL GROUP (Feb. 12, 2002), <http://www.barna.org/barna-update/article/5-barna-update/67-americans-are-most-likely-to-base-truth-on-feelings> (reporting that 22% of Americans believe in moral absolutes while 64% take a relativistic position).

104. See Edward McGlynn Gaffney Jr., *Pierce and Parental Liberty as a Core Value in Educational Policy*, 78 U. DET. MERCY L. REV. 491, 534 (2001) (“In both instances, the ideal of freedom, from mutual mistrust among differing religions or oppressive government, was grounded in the ‘profound conviction that only a virtuous people can be free.’ By a ‘virtuous people’ Murray meant those who are ‘inwardly governed by the recognized imperatives of the universal moral law.’”).

105. As Harel Aron writes, the notion of tolerance historically has been justified within several frameworks, including those that posit a belief in moral absolutes. Aron observes that the philosopher Immanuel Kant “developed a moral theory that renders some acts completely immoral.” So while Kant argued for tolerance, he “did not hesitate, for example, to condemn all extramarital sex and homosexuality as absolutely immoral.” Harel Aron, *Legal Reasoning: Justifying Tolerance in the U.S. Supreme Court*, 2 N.Y.U. J. L. & LIBERTY 262, 272 (2007); see also His Eminence Card. Joseph Ratzinger, *supra*, note 102 (discussing the Catholic Church’s affirmation of certain absolute truths). Catholicism, however, is not incompatible with democratic values. Catholics have a long history of active and beneficial civic and political participation in this country. Other faiths hold similar beliefs and evidence constructive participation over the long history of our nation.

“core values, including tolerance for diversity,”<sup>106</sup> then states should take sides and “promote” progressive values by “require[ing] homeschoolers to include curricular materials that promote tolerance for diversity.”<sup>107</sup>

Similar to Ross, Yuracko proposes, among other things, that to ensure that homeschooled children receive “the basic minimum” of education, the state:

May limit the extent to which parents may teach their children idiosyncratic and illiberal beliefs and values without labeling or framing them as such. In other words, the minimum may require that if parents want to teach against the enlightenment they have to label what they are doing as such.<sup>108</sup>

Put differently, she suggests that Christian homeschoolers may be required, in discussions with their own children, to label their own beliefs as backwards or unenlightened, casting opposing beliefs in a more favorable light.<sup>109</sup>

All three theorists substitute ideological presumptions, instead of credible empirical data, as the underpinning for their claims that homeschooled children fail to encounter or engage opposing viewpoints or belief systems. Worse, they would mandate servings of progressive ideology as the force-fed solution to a non-existent problem.

#### *Data Lacking to Support Claim of Actual Harm from Homeschooling*

These scholars also presume a cause and effect relationship, and resulting harm, where there is little, if any, basis to suggest they exist. They argue that homeschoolers’ presumptively narrow education will cause them to be unable to exercise autonomy as adults or will create an unacceptable likelihood that they will fail to appropriate the “constitutional value[s] of tolerance” and diversity.<sup>110</sup> Reich, asserts that the “all-encompassing” environment of homeschooling leaves children “ethically servile,” or “unfree, unable to imagine other ways of living.”<sup>111</sup>

Even if Reich, Ross, and Yuracko were correct that homeschoolers experience a narrow range of information or fail to engage opposing ideas and values, they have not established a solid basis for the claim that adults

---

106. Ross, *supra* note 2, at 1013.

107. *Id.*

108. Yuracko, *supra* note 14, at 183.

109. Yuracko takes aim squarely at Christian parents who promote “illiberal” values and notes the absence of discussion “of the extent to which a liberal society should condone or constrain homeschooling, particularly as practiced by religious fundamentalist families explicitly seeking to shield their children from liberal values of sex equality, gender role fluidity and critical rationality.” *Id.* at 127, 131.

110. See discussion *infra*, Are These Assumptions Accurate?, note 126.

111. Reich, *supra* note 64, at 8.

who were homeschooled as children in fact exhibit underdeveloped capacities for autonomy or civic responsibility. This harm is presumed. They have also failed to show that adults homeschooled as children exhibit any *less* personal autonomy or civic engagement than adults who were educated in public schools. Again, the comparative degree of harm is also presumed. Even if they produce clear data on both ends, establishing an inadequate education, on the one hand, and an underdeveloped capacity for autonomy, on the other, the critics cite no evidence of a causative link between the two.

Part of the difficulty here is that ideology intrudes and derails thoughtful consideration of the outcomes associated with homeschooling. Ross speaks of “the state’s normative goals in exposing children to constitutional values,” along with her presumption that homeschooling families will not comply with those goals, but provides no proof of harm or causative link between the parents’ actions and the presumed harm to their children.<sup>112</sup>

Reich, for example, says that it is “possible” that homeschooling parents may create an “all-encompassing or total environment that fails to develop [homeschooled children’s] capacity to think for themselves.”<sup>113</sup> However, Reich offers no empirical basis for concluding that homeschooled children do *not* mature into self-governing and autonomous adults who are able to think for themselves. It is unclear how he would measure whether an adult who was homeschooled has the capacity to think for him or herself. Reich seems to suggest that autonomy is demonstrated by a child’s choice of values *opposed* to his parents’ religious values. How would a state assess whether autonomy is developing apace in a particular child; only by his or her outright rejection of the parents’ values? Casting autonomy in those terms imports ideological bias—that autonomy can only be fully exercised in opposition to absolutist beliefs or beliefs in religious authority or Biblical inerrancy—into the very definition of autonomy. Reich implies that the hallmark of a formerly-homeschooled, thinking adult is one who rejects the religious beliefs of his or her parents or embraces moral relativism instead of the inerrant beliefs at the heart of the Christian worldview. This is nothing more than an ideological judgment of the reasonability or value of particular religious viewpoints.

In their eagerness to presume that harm results from religiously-motivated homeschooling, the critics also ignore data that indicates it is common for parents to share faith and values with their children. Even the religiously unaffiliated, who nevertheless are likely to evidence a spiritual

---

112. Ross, *supra* note 2, at 1014.

113. Reich, *supra* note 64, at 8, 10.

worldview, “seek to transmit that worldview to their children, much as churched parents do.”<sup>114</sup> Aside from parents who are completely “indifferent” to religion and spirituality, or parents who describe themselves as “spiritual seekers” who embrace religious pluralism, most parents do take specific actions to transmit their moral and religious worldview to their children.<sup>115</sup> That’s a good thing.

Researchers report that, “shared faith commitments enhance[e] family cohesion . . . in intergenerational relationships.”<sup>116</sup> So while Reich frets about the harm that might occur if homeschooled children were influenced to adopt their parents’ beliefs and values, instead of “thinking for themselves” and rejecting those values, it turns out that teens who share their parents’ faith are more likely to enjoy “positive social outcomes.”<sup>117</sup> The converse is true as well: adolescents are more likely to experience “negative . . . outcomes” when they are religiously “dissimilar” to their parents.<sup>118</sup>

Policymakers would do far better to encourage additional research and to examine existing data, which, though not robust, suggests that other factors lead to conclusions at odds with the presumptions of these scholars. Kunzman and Gaither observe:

[T]here may also be ways in which religious homeschooling promotes independent thinking and offers alternative life options to consider. As noted previously, homeschooling is a countercultural endeavor for many families, and an ethos of resisting authority and questioning professional expertise appears quite common . . . perhaps especially so for conservative religious homeschoolers. . . . The very act of homeschooling serves as an assertion of their conservative religious identity . . . and this countercultural ethos may in turn foster the kind of mindset that characterizes autonomous thinking. Much depends, of course, on whether the countercultural resistance is informed by critical consideration of a range of alternatives or merely unreflective acceptance of a single competing narrative.<sup>119</sup>

Progressive critics who theorize that homeschooling limits a child’s autonomy and ability to “think for himself” likely fail to consider how homeschooling plays out across an individual’s childhood. Homeschooling is often a longitudinally time-limited venture. One study cited by Kunzman

---

114. Christel J. Manning, *Unaffiliated Parents and the Religious Training of Their Children*, 0 SOCIOLOGY OF RELIGION 1, 24 (2013), available at <http://socrel.oxfordjournals.org/content/early/2013/01/16/socrel.srs072.full>.

115. *Id.* at 11.

116. John P. Bartkowski, et al., *Religion and child development: Evidence from the Early Childhood Longitudinal Study*, 37 SOCIAL SCIENCE RESEARCH 18, 21 (2008).

117. *Id.*

118. *Id.*

119. Kunzman & Gaither, *supra* note 11, at 22.

and Gaither “found that only 48% of homeschooled children from religious homes and only 15% of those from secular homes continue to homeschool for more than six years.”<sup>120</sup> Further, “more than one-third of homeschooled children return to institutional schooling after the first year.”<sup>121</sup>

In addition, Kunzman and Gaither’s analysis suggests that the strength of parental religious commitment may play a stronger role than homeschooling in a child’s appropriation of religious values; contradicting the claim that homeschooling necessarily renders a child “unfree” to choose their own values in opposition to parental values.<sup>122</sup> Further,

Analysis of the National Survey of Youth and Religion dataset . . . finds that, for children with deeply religious parents, whether or not they were homeschooled made no statistical difference in their religious behavior and commitments. The parents’ influence was the same regardless, a counterintuitive finding that calls into question the assumption by many theorists that the homeschool milieu increases the ideological influence of parents.<sup>123</sup>

For progressive theorists, then, religion may in fact be the ‘problem’ they eventually will seek to ‘fix.’

In sum, these scholars *presume* a link between an education that they *presume* is inadequate and as a result of the harm they *presume* would result, they urge states to impose strict regulations on homeschooling families, requiring them to “promote,” in their own homes, beliefs and values they strongly oppose.<sup>124</sup>

#### CONCLUSION: LET DATA, NOT IDEOLOGY, DRIVE THE CONCLUSIONS

The willingness of homeschooling critics to rely on ideological rhetoric to drive policy towards educational uniformity, based on a platform of progressive values and viewpoints, instead of encouraging more research and exploration into the actual results of homeschooling is troublesome. Policymakers would do well to recall the importance of the Supreme Court’s ruling in *Pierce*, as described by Professor Edward McGlynn Gaffney:

*Pierce* stands as a beacon against too singular a uniformity in the life of the mind being imposed upon all our children. In Louis Marshall’s phrase, ‘If the children of the country are to be educated in accordance with an

120. Kunzman & Gaither, *supra* note 11, at 16 (citing Isenberg, E. J., *What have we learned about homeschooling?*, PEABODY J. EDUC. 82, 387-409 (2007)).

121. *Id.* Kunzman and Gaither add that Isenberg found “somewhat lower” turnover rates among “religiously motivated families.” *Id.* at 9.

122. Reich, *supra* note 64, at 8.

123. Kunzman & Gaither, *supra* note 11, at 23.

124. Ross, *supra* note 2, at 1014.

undeviating rule of uniformity and by a single method, then eventually our nation would consist of mechanical Robots and standardized Babbitts.<sup>125</sup>

Diversity, in the macro rather than micro sense, may in fact be well served by homeschooling, through the variety of styles, philosophies, and methods of its practitioners.<sup>126</sup>

Future assessments of homeschooling will benefit from a non-ideological framing of the issues and a better factual foundation for discussion. Rather than imposing more state regulation over homeschooling, on the basis of ideological assumptions and little data, policymakers should encourage scholars to identify research gaps in the data on homeschooling outcomes and to undertake additional rigorous quantitative and qualitative research. An emphasis on research may benefit educational reform more generally as well, as research may yield insights into alternative ways to spur academic success for all children.

Surely we can agree that the resolution of policy conflicts over homeschooling begins with a general commitment to rigorous research and a willingness to avoid facile assumptions or conclusions, driven by ideology.

---

125. Gaffney, *supra* note 104, at 545.

126. For example, one qualitative study of African-American homeschoolers found that many “families reported that they intentionally infused an afrocentric or Black American focus into their home school practice.” Fields-Smith & Williams, *supra* note 34.