



**Australasian Association of Progressive and Alternative Education**

**2005 Conference**

**Preshil School, Melbourne**

**Why democratic values and human rights are so important  
and worth fighting for**

Booroobin evolved from an educational needs analysis of interested parents, children, teachers and friends undertaken over several meetings in early 1994. This needs analysis laid the foundations, the principles, values and philosophy, for what is a rights and responsibilities based, participatory educational democracy for Students between the ages of 4 and 19 years. It was soon realised that the concept was not new – democratic and free Schools like the Sudbury Valley School, Summerhill and many others had operated successfully for decades. The Founders searched far and wide for an educational model that as closely as possible matched our educational needs, resulted in finding and deciding to adopt the Sudbury model of education. Sudbury almost perfectly fitted what Founders needed. We debated, decided and wrote a Constitution that is pursuant to and consistent with the outcomes of the needs analysis and complied with Australian law for a not for profit company. In 1996, following two years of hard work by up to seven committees, and with State and Federal Government approvals, a new School was founded in the Maleny district of the Sunshine Coast hinterland. Applications included full details of the intended democratic educational model and how it would operate on a day to day basis<sup>1</sup>. The School opened in February 1996, in accordance with local, State and Federal Government approvals (based on

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<sup>1</sup>Extensive research of schools in Australia and internationally resulted in finding that the Sudbury Valley School in Framingham, Boston, Massachusetts met Founders' educational needs. SVS has now been operating for 36 years. It has produced many of its own books, videos. The latest is "The Pursuit of Happiness – the lives of Sudbury Valley Alumni" published in 2005. This title contradicts the comment of the Minister for Education in 2003 in which she challenged whether happiness is connected with being at School. SVS Press books and publications are available at Booroobin. New Schools modeled on SVS are opening in many countries – all initiated by individuals in their own countries. Some 34 independent Schools in several countries now follow the SVS model in mutually beneficial relationships.

full information about the principles and day to day operation of a Sudbury model School). These factors might help people understand how invested we are in the educational model and everything that has developed from it.

The School was founded, resourced, restored and built by Founders, with their own hands, with monies that were fundraised, some donations and their own money. In 8 years of operation, no government money was ever received for capital expenditures<sup>2</sup> like land, buildings, improvements or resources. The School was not the government's property to do with as it pleased, or based on any whim or political ideology.

As a School, and now as a Democratic Centre of Learning, our enrollments have ranged from 7 to 22 Students. Enrollments have averaged 15 Students. Currently there are 8 enrolled Students, with another Student undertaking a 1 month "check out". 4 other Students are attending for visiting periods of between 3 and 4 months. The average enrollment period is 4.2 years, which suggests stability. There have been between 3 and 5 elected Staff selected according to a range of published criteria, who are subject to signed Terms and Conditions of Employment. New Staff undergo longish probationary periods of between 12 and 18 months, during which time they undergo 4 or 5 secret ballots, depending how many days a week they work. At any one of those secret ballots, more no than yes votes would result in the cessation of the employment of the probationary Staff. The same could happen at any subsequent end of year annual elections of Staff. Although never definite, the culture has been also assisted by a stable core of Staff.

By any reasonable measure, Booroobin has been successful. We have continuously implemented the Objects in our Constitution. Despite many external effects, the School carefully managed its business, ending all financial years with a cash surplus. There have been 5 Graduates and 3 long term Students who completed their years of schooling at Booroobin. Long term enrollment is regarded as being a minimum of 3 years. All Graduates and 2 of the long term Students have pursued their interests by either undertaking further

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<sup>2</sup>With the exception of perhaps \$100 in book grants from the Federal Government

education, or through employment or both or by operating their own enterprises. Those who have undertaken further education have achieved distinctions and credits in their studies, despite most never having attended a class or taken an English lesson, for instance, while at Booroobin. All are independent, successful, grounded and apparently happy people. The other long term student is a contractor who still comes to Booroobin every day, assists students and undertakes work on campus.

This is now our 10th continuous year of operation. Students do what they wish with their time. They are learning to take more responsibility for themselves. There is so much creative play, conversations, and a range of self directed activities happening on our campus all the time. Indeed, our specifically selected rural campus of 16.4ha supports natural learning.

Our greatest regret has been the constant intolerably intrusive impacts of our Queensland State Government. Bureaucrats and educators who were stuck in 19<sup>th</sup> century educational thinking made no effort to understand the Sudbury model from the beginning, and used typical bullying, coercive tactics throughout the years which were finally successful in closing the school down in 2003. Founders recognised that responsibility is the key to liberty or freedom. *“Liberty means responsibility. This is why most men dread it.”*<sup>3</sup> And they took responsibility very seriously, rejecting other educational practices in which responsibility is not borne by the individual, but by others, or alternatively, imposed without regard for human rights. Founders regarded this practice, by itself, as not supporting young people preparing for life as effective adults, but for failure as adults. Yet bureaucrats were only accustomed to compliant, dependent schools, and dependent students who were neither empowered nor allowed to be personally (let alone, collectively) responsible. They remained completely ignorant to the many differences in approaches to learning, teaching and education exhibited at The Booroobin Sudbury School; the life experienced Staff; the independence of thought and opinion; the Students' independent self-directed learning; the many and varied learning activities and approaches to a Natural Learning Curriculum<sup>4</sup>, that also provided for drawing on

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<sup>3</sup>George Bernard Shaw *“Man and Superman”* 1903. This is one of many quotes on Booroobin's web site.

<sup>4</sup>Even when this Natural Learning Curriculum was required by, submitted to and in the hands of the Queensland Minister for Education and Education Queensland for some 6 months in 1999, when it was comprised within an approval by the

the State's curriculum, when appropriate. They ignored the successes of our long term and Graduate students. Yet, in contrast, Booroobin's approach has been congratulated, on and off the record<sup>5</sup>, including this intriguing introduction to a recent communique: "*I wish to state at the outset that the MDCLC's views on education theory and its propounded alternative approach to education are important voices in an ongoing discussion on educational philosophy. The MDCLC's opinions are always welcome in this debate.*"<sup>6</sup>" The cancellation of our accreditation in December 2003 using nefarious, undemocratic means also denied our human rights. This caused the Assembly to fundamentally reassess its business and future. An action against the Queensland Government in the Supreme Court is ongoing.

It is the absence of human rights protections in the *Education (Accreditation of Non-State Schools) Act 2001* and its ancillary Regulations that has brought Booroobin, as a rights based education provider, into the most conflict with government. Most surprising are the black letter law protections for the rights of people, most especially children, in the *Child Protection Act 1999* and the *Commission for Children and Young People and Child Guardian Act 2000* and yet those same protections are not afforded in law to people and children in non-State Schools. Because it is not in the governing legislation, the Non-State Schools Accreditation Board (hereinafter referred to as "the Board") is unlikely to exceed its mandate and apply other legislation, even though the government to whom it is responsible must apply international human rights law. Human rights and the best interests of each child are integrated into the Constitution governing Booroobin, and Booroobin implements its Constitution and rights based education in its day to day operation. Parents, children and Staff agree with and support this - and Booroobin is contractually obligated to implement the participatory, democratic, rights based educational model. The views and interests of each child are given equal status.

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Minister.

<sup>5</sup>In 2001, during a visit to Booroobin, then Acting Director of the Office of Non State Schooling, now Director of the Office of Non State Education, Mr Laurie Vogler, who provides administrative support to the NSSAB said that he recognised that Booroobin was well ahead of the State's ambitions for education in State Schools, QSE 2010. All Booroobin Staff were present at the time. He said he would never be quoted as having said this. Also see Booroobin's online Guestbook, and the many letters of support.

<sup>6</sup>Letter to Rob Messenger MLA from the Queensland Minister for Education dated June 14, 2005 in response to ministerial representations on Booroobin's behalf.

Booroobin complies with international human rights conventions and treaties.

However, by Constitutionally according rights, and responsibilities, to its young people, Booroobin had signed its death warrant with the Queensland Government. It has become apparent that if you're small, and assert your rights, then it can be expected that especially bureaucrats in government and Ministers will come down even heavier and seek to bully you into submission. This acts against Australian values of supporting the ordinary "little" people, ensuring that everyone has a "fair go", and are treated justly. But this relies on effective communication and listening which was not afforded to the students, parents, staff and members of the school community.

Backed up by the Act, the processes and decisions used by the Board and the Queensland Minister for Education ("the Minister") were undemocratic, unjust and unfair. Issues about breaches of human rights, natural justice and our democratic rights and values were raised in Booroobin's letters to the Queensland Premier ("the Premier")<sup>7</sup> and the Board Chairperson<sup>8</sup>, but were ignored or simply swept aside. Requests for meetings and invitations to visit were similarly ignored<sup>9</sup>. Both the Premier, the Minister similarly ignored our written complaints about breaches of human rights and natural justice<sup>10</sup>. The Minister had written Natural Justice out of the new legislation<sup>11</sup>. This resulted in the School being treated as guilty of things that only claims<sup>12</sup> were made about, but it had no ability to respond to, until the Board completed its fishing expedition for documents and information. The School felt bullied<sup>13</sup>. So the Board, which had no latitude in its decision making, and was stacked with appointees of the Minister or her Director General, didn't take notice of this Common Law right of natural justice. We can only guess at how many letters of complaint Education Queensland receives

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<sup>7</sup>Letter to the Premier on April 25, 2003; further letter to the Premier on June 6, 2003

<sup>8</sup>Letter to Chairperson on April 20, 2003; letter to assessors April 20; June 23; July 11;

<sup>9</sup>Letters to the Queensland Premier April 25, June 6; letters to Qld Minister for Education September 22, November 24

<sup>10</sup>Submissions to Non-State Schools Accreditation Board on June 6, 2003, September 22

<sup>11</sup>See *Education (General Provisions) Act 1989* s.74

<sup>12</sup>The letter relied on by the Board to launch an assessment with 2 weeks notice, was finally obtained through an FOI search. The Board refused to release it or any other letters of complaint. Only one issue raised in the letter was found to be correct. The author was a non-custodial father of an enrolled Student, whose mother was an elected Staff at the School – both were more than satisfied with the School.

<sup>13</sup>Inspections and assessments, sometimes more than once a year, had happened as recently as 2001, with earlier inspections in 1997, 1998, 1999, 2000.

about State Schools, either generally or about specific schools, but, in the case of Booroobin, the Board acted on a single letter of complaint. We only discovered the letter after an incomplete FOI search, and that letter was subsequently shown to have little substance, with all but one the claims were found to be incorrect. The only correct element was that Students took responsibility for their own self directed learning.

Our searches and enquiries have since failed to find any written complaints handling system in Education Queensland. We have noted that the State Ombudsman has made recommendations about complaints handling in particular State Schools, but apparently there is still nothing that applies State wide and which can be reported to Parliament. Complaints to Booroobin, when there were any, and they could be counted on the fingers of 1 hand in 8 years of operation were handled at weekly School Meetings, potentially involving all Students and Staff. Parent Liaison Clerks had been appointed annually by the School Meeting in order to hear and resolve any issues with parents about or involving Students, and always with the Students present.

Neither the Board and its assessors nor Minister Bligh, despite experiences in her previous portfolio<sup>14</sup>, and the uncovering of so many abhorrent child abuse claims over so long, are required to take notice of the earlier child protection legislations. Those Acts finally recognised children and young people as having rights. The following are contained within documents lodged with the Supreme Court. Assessors didn't have relevant qualifications, and in fact were likely to be biased as both seemed to have State School backgrounds and, therefore they made fundamental errors in their report and statement. Comprehensive submissions by all the parents, individually and collectively, our experienced Queensland Registered Teachers and other elected Staff (the parents of enrolled Students), a psychologist and all the Students and letters and Petitions signed by people, Schools and organisations from around the world were ignored, with impunity. The substance of the many letters to the Queensland Premier Beattie and Minister Bligh were deflected to the Board, and went unanswered<sup>15</sup>. Extensive, even though unconventional written evidence of diverse, real-

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<sup>14</sup>Minister Bligh immediately previous portfolio was Minister for Families

<sup>15</sup>See list of 38 Letters, Submissions and Conference Resolutions initiated and written by people, schools, organisations and

life learning activities along with information about the successful educational outcomes of Graduates and long term Students<sup>16</sup> who had completed their years of Schooling were disregarded. It made no difference that all were independent people of the 21<sup>st</sup> century<sup>17</sup>, most of whom had undertaken further studies<sup>18</sup>, two with Queensland government scholarships<sup>19</sup>, were not reliant on government benefits, and are either working in diverse occupations<sup>20</sup>, studying, or both, or running their own enterprises, and who are therefore contributing to Australia's human and social capital, not taking from it. The majority of the School's applications<sup>21</sup> of the far sighted national goals in education in the 21<sup>st</sup> century<sup>22</sup> agreed by all Ministers for Education, were ignored by the Board who selectively singled out only one of 18 goals, and even misquoted that. An Appeal to the Minister, was sent off to an "independent panel" recommended and nominated by a bureaucrat to ascertain if the Board had followed proper processes. Yet, recent research has revealed, one of the members of the panel was a QUT lecturer<sup>23</sup> who co-authored a book and worked at the QUT with a Board member<sup>24</sup>.

Parents, students, staff, and Graduates decided to launch the only action possible against the Queensland Government, since the sole arbiter of any appeals is the Minister, and not a Court of competent jurisdiction as it ought to be (when considering appeals against decisions of a Board adhering to prescriptive legislation sponsored by the Minister). This was an action for the judicial review of the processes and decisions of the Board and the Minister based on breaches of natural justice<sup>25</sup>. At the last Hearing on March 21, 2005, Justice Atkinson

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national and international conferences who know Booroobin first hand. These represent only a small proportion of the letters and e-mails sent to the Premier and Minister.

<sup>16</sup>See chart of Progress of Graduates and Long Term Students – 5 Graduates and 2 long term Students who completed their years of schooling at Booroobin in 8 years of operation, subject to 3 years minimum attendance to apply for unique Graduation process

<sup>17</sup>Multimedia, Programming, Graphics, Animation, Fine arts, Organic Farming; Mechanics; Sound recording; Retail, Hospitality, Music

<sup>18</sup>QANTM (2); Bayside TAFE (3); Southbank TAFE (1)

<sup>19</sup>Queensland government scholarships granted to successful competitive applicants

<sup>20</sup>Web site development, Retail, Mining, Fine Arts, Landscaping

<sup>21</sup>See Booroobin's self assessment

<sup>22</sup>Adelaide Declaration of Nationals Goals for Schooling in the 21<sup>st</sup> Century agreed by all Ministers for Education in 1999

<sup>23</sup>See attached published details of panel member, Simon Young

<sup>24</sup>See attached details of Board members and published details of Board member, Bill Lane

<sup>25</sup>Action in the Queensland Supreme Court BS 705 of 2004. From March 15, 2005 because of an inability to further fund expensive legal fees, Booroobin is presenting its own case.

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ordered that any further submissions could be made to the Minister and that the Minister would be required to respond. The Submission (not sub judicæ) detailed claims why Booroobin ought to be accredited as a School. The Minister's negative response<sup>26</sup> was not unexpected. In the absence of any other communication, it was the aspects of the submission that she took issue with which illustrated what could be assumed that she is likely to be adverse to. It also illustrates that Minister Bligh is unaware of publications of Education Queensland and the Queensland Studies Authority<sup>27</sup>.

As parents and teachers we want our Student children to have and enjoy the rights that Australia has ratified under International Human Rights Law along with democratic Australian values. We founded a School for that purpose. Now the School is closed we could now be regarded as education refugees. Fortunately, as Australians we are not subject to being deported from the country (unless by mistake!). We are here to stay and are doing things for ourselves, except that the State wants to force us as parents and teachers into education processes, systems and environments that is not of our choice that do not accord with our values and beliefs. Unfortunately the rights and values we expect for our children are not available or evident in other Schools. We accept full responsibility for the education of our children. We will not delegate that responsibility to the State. Other parents who choose to do otherwise are exercising their rights, and we respect that. We have set out to change other Schools or the educational choices that other people make. We simply expect our rights as parents, young people, teachers and an independent School to be respected and upheld. But we are not optimistic that this will happen under this government, while the Minister and the government chooses to selectively and hypocritically apply and "allow" certain rights only after problems occur and after the fact<sup>28</sup> and certainly not under the interpretation of this current governing education legislation. Legislation can be better. The review into non-state schooling in Queensland<sup>29</sup> failed to take notice of education in Denmark,

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<sup>26</sup>Letter of May 9, 2005

<sup>27</sup>See chart listing Minister's concerns; corollaries to the Minister's concerns; reference in Education Queensland documents that support Booroobin's processes

<sup>28</sup>Refer to inquiries into children in institutions, children in foster care, Palm Island, alcohol in aboriginal communities, the hospital system arising from deaths at Bundaberg Hospital, etc.

<sup>29</sup>The Review was chaired by Roy Webb, who was later appointed by the Minister to Chair the Non-State Schools Accreditation Board and administer the legislation he helped draft.

where, for the last 150 years, the government has fully funded the exercise of choice in education, whether children are educated in public, free (private) schools or at home. Individuals are able to establish new free Schools subject to minimum criteria. Denmark has a wide variety of schools serving the diverse educational needs of families<sup>30</sup>.

The 1999 *Child Protection Act* precedes the 2001 *Education (Accreditation of Non-State Schools) Act*, and the *Child Protection Act* broadly reflects provisions of the *Convention on the Rights of the Child*, the *Education (Accreditation of Non-State Schools) Act* pays little and almost no regard to the Convention. It may be that, in drafting the *Education (Accreditation of Non-State Schools) Act 2001*, it was supposed that Schools were generally establishments separate from parents and children, and were only established to provide an educational service to students. This may well apply to many, if not most, schools but it does not apply to those schools established within communities, by parents from within those communities to suit the educational needs of their Student children. Such alternative / democratic / free / progressive Schools are generally founded with high level involvement of parents, often teachers and sometimes children. The Schools reflect the reasonable values and beliefs of the Founders, and those people who subsequently enroll in the School. The *Education (Accreditation of Non-State Schools) Act* makes it very difficult, almost impossible for ordinary people to establish new independent schools in Queensland.

The Submission to the Non-State Schools Accreditation Board on June 23, 2003 made considerable references to international human rights treaties and conventions which Australia has ratified and signed<sup>31</sup>. In 1993/4, Founders spent a great deal of time over several meetings deciding, through an educational needs analysis, what sort of school they intended to establish. This laid the foundations for all the subsequent decisions about the School's educational philosophy, its Constitution and its day to day operation, including especially Students' learning and development, over the long term duration of their enrollment

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<sup>30</sup>Japan's Ministry of Education's National Institute for Educational Policy Research of Japan publication "Prospect and Retrospect of Alternative Education in the Asia-Pacific Region" report of the International Seminar for the Development of Alternative Education: Sharing Experiences among "Free School" Educators in Asia and the Pacific. Refer to the chapter "The Danish Free School System"

<sup>31</sup>Submission dated June 23, 2003 to NSSAB p. 21 to 24 and p. 64 to 97

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into effective adults. Although obvious at the time, education and daily life were regarded as integrated and not separate. It became apparent that the educational needs and the manner in which young people (children) were fully consulted, integrated and involved in both the planning and decisions relating to the foundation of the school, that they would be fully involved in the business of operating the school from the day it commenced and involved in all the decision making from the day the school commenced including about their learning: *“Object 3.2 To operate such School in a genuinely democratic way whereby Students; teachers and other employees (hereinafter called the "Staff") and others are equal in all respects; and Object 3.4 To enable the opportunities and responsibilities of operating the School to be shared among Students, Staff, parents and community Members according to the needs expressed by the School Meeting.”*<sup>32</sup> The Constitution enacted the educational philosophy, needs, values and beliefs of the Founders (refer *Object 3.1 To maintain an open access community learning centre trading as The Booroobin Sudbury School - a centre of learning, which has converted from the entity known as the Maleny District Community Learning Centre Co-Operative Society Ltd, for the education of students based on the Sudbury Valley School in Winch Street, Framingham, Middlesex County, Massachusetts, USA, or at such other place as it may be located and at all times and in all circumstances and conditions whensoever and whatsoever to strive to implement and integrate the principles of the Sudbury Valley School.*) and empowered young people to be fully involved in their own education (refer *Object 3.6 To provide a curriculum which is determined by the interests of students and staff, in which equal status shall be given to all pursuits. Object 3.7 To provide a learning environment based on the principle that learning is best fostered by self-motivation, self-regulation and self-assessment. Object 3.8 To create and maintain a flexible learning structure in The Booroobin Sudbury School so that students will be free to adhere to traditional learning pursuits or create new ones.*) Thereby, parents empowered their student children through the Constitution and the Enrolment Contracts they signed.

Some years later, it was noted that the educational philosophy and Constitution and day to day operation of the School comply, sensibly, but by coincidence, with International Human

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<sup>32</sup>Object 3.2 contained within the Constitution of Maleny District Community Learning Centre Ltd as annexed hereto

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Rights Law as contained within international human rights conventions and treaties<sup>33</sup>.

**Booroobin believes that international human rights treaties and conventions are the foundations for people living and relating to each other and operating a School.**

Further we accept that rights and education are engaged in a mutually defining process, each essential to the enhancement of the other. Further, I believe that human rights underpin democratic values and in turn, are integral and essential to attaining economic, environmental and social sustainability. **Human Rights Conventions and Treaties must be enacted through all legislation, or in specific overriding legislation, such as a Bill of Rights.**

The School community was “*oriented in such a way as to contribute to the enjoyment of all human rights by every member of society*”. The Booroobin Sudbury School made education available, accessible, acceptable and adaptable for its Students, with the full knowledge and agreement of their parents, and supported by both selected qualified and life experienced Staff. The focus of planning and operation of the School was always on the best interests of each child.

*“Only where individual rights are respected can differences be channelled politically and resolved peacefully. Only in a democratic environment, based on respect for diversity and dialogue, can individual self-expression and self-government be secured, and freedom of association be upheld.” “The idea that there is one people in possession of the truth, one answer to the world's ills, or one solution to humanity's needs, has done untold harm throughout history – especially in the last century.” “The obstacles to democracy have little to do with culture or religion, and much to do with the desires of those in power to maintain their position at any cost. This is neither a new phenomenon nor one confined to any particular part of the world. People of all cultures value their freedom of choice, and feel the need to have a say in decisions affecting their lives.”<sup>34</sup>* These words ought to be heeded by all governments but especially the Queensland Government. Booroobin has said this all along,

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<sup>33</sup>Also refer to Manual on Right-based Education – a Manual on rights-based education. Global human rights requirements made simple, Collaborative project between the UN Special Rapporteur on the Right to Education and UNESCO Asia and Pacific Regional Bureau for Education.

<sup>34</sup>Speech given by Kofi Annan, UN Secretary General in Oslo in accepting the Centennial Nobel Peace Prize

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in so many letters<sup>35</sup> over the years. We have sought direct dialogue and communication with the Premier, Ministers for Education, the Board and the independent panel. This Queensland Government has so often acted to the contrary, acting in ways that power must be held at any cost, hiding obvious shortcomings and failures behind new grand plans, spending of taxpayers' money and sending their problems off to new Commissions of Inquiry, ignoring what is placed in front of them for politically ideological expedient reasons, when good management that did not rely on an abusive culture of bullying and suppression ought to have ensured the problems did not occur in the first place or were heard and dealt with by an open, fair, respectful, trusting and just administration. It is so similar to the arrogance displayed by the previous Goss Labor government, voted out of office. From 2001/2, the government acted as if it had all the answers to education, and only their way was the right way. Yet they don't have all the answers, and it's far from smart to think that any government has all the answers. Only individuals have the greatest capacity to innovate and introduce and implement new ideas. Their only restraints are government restrictions. Government always lags behind the people, as it ought to.

Our diverse backgrounds and life experiences and day to day experiences in Booroobin's rights and responsibilities based participatory educational democracy over 10 years along with our observations of current affairs have clearly demonstrated that rights and responsibilities are fundamental to the functioning of democracy. Human rights must be recognised even when others don't want to exercise their rights, or can't see how they might enjoy these rights. Even the current Queensland Premier and probably many members of the government, along with others in the legal profession and in civil society, protested long and loud about the denial of certain rights during the years when a former Premier, Joh Bjelke Petersen, was head of government. This Queensland government must also want to be known as being similarly responsible for the denial of rights; or the anomalous application of rights, only to serve their particular political purposes; or slowly changing to recognise those human rights, only after enough people have been hurt, as has happened to children in institutions or in care or as has happened to people in the health system, indicated by

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<sup>35</sup>Detailed letters have been previously sent to the Minister and Premier over the years.

occurrences of death and injuries at least in the Bundaberg Hospital. Individual rights should not be dismissed or diminished by bullying, domination, coercive tactics and the use of government power to control people. Rights exist despite the actions by others to deny their rights. The exercise of choice as a right, must not be constrained or stopped by the inability or lack of acceptance by others of that choice. However, there must be means in Queensland and Australia to independently hear claims of human rights' breaches. Currently, this is simply not available. Caesar simply judges Caesar, or refuses to accept that Caesar or his servants may be wrong.

Produced with a Submission to the NSSAB dated June 23, 2003 was a psychologist's report<sup>36</sup>. This report was prepared in response to what Booroobin regarded as an assumption that perhaps the assessors believed, and which the Board later relied on, that a particular unspecified cohort of students could not express their needs and views sufficiently for their interests to be disregarded or go unnoticed. The report recorded that all the Students could express their own views and understood their rights and choices. As much as for any other reasons, young people at Booroobin know and have their rights affirmed all the time. They know that they exercise choice in their learning, supported fully by their custodial parents.

There is a significant gap between Booroobin's approach to supporting the enjoyment of learning, and the development of critical thinking and meta cognitive skills, which becomes a natural lifelong pursuit and its provision of a natural, learning environment and educational practices that do not go far beyond helping children to memorise and accurately regurgitate facts under exam conditions. Booroobin Students also have had that choice and have availed themselves of that choice. Quantifiable educational outcomes can jeopardise a general commitment to learning, whereas the core objective of learning from Booroobin's perspective is to support young people in their preparation for life as effective adults in ways that integrate the core objective of a rights based approach to education which is the development of the ability to learn and to continue learning throughout life.

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<sup>36</sup>Ms Marilyn Newland, The Altair Centre

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## **International Human Rights Law**

Following are applicable sections of international human rights law as contained in Conventions and treaties and ratified by the Australian government. Also shown is how The Booroobin Sudbury School – a Centre of Learning complied with the Treaties and Conventions, even before Australia became a signatory in the case of the Convention on the Rights of the Child (CRC).

### **Parents rights to freedom of choice**

International human rights law requires the State to respect the freedom of parents and communities to establish and operate schools.

**It is not the role of the State to give birth, nurture, clothe, feed, house, and raise children and protect them from personal harm. This is the role of the family. The State cannot replace parents in loving and supporting their children and giving them warmth and comfort. Neither can the State pass on sound personal advice, values, skills, morality nor family life. It has regularly failed children in its care. The imperatives of the State are different from the family's fundamental role in raising children and supporting their development from dependency to independence. Likewise, the State must allow parents free choice in educating their children according to their values and beliefs. International human rights laws were designed to ensure liberty for the individual as a balance against the might and powers of the State being used against individuals.**

The following international human rights laws must be implemented, as well in education. These laws have been breached. The Booroobin Sudbury School was established by parents and teachers for the benefit of children and in the best interests of each child. The School was operated in accordance with its Constitution. For the period 1996 to 2003, 60% of the School Staff have been parents of some Students, who have applied like any other applicants, and undergone all of the screening, interview, election and probationary

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processes like any other applicants. **Canceling the accreditation of the School, and thereby closing the School took away parents right and liberty to continue to direct an education institution.** The power of the State was used to close the School, and not work with the people to understand their School, in order to bring about a mutually satisfactory result. Canceling an independent School's accreditation is certainly available to the State to demonstrate its power to impose, regulate, compel and control (as complained by Booroobin during the assessment process), but it does so at the cost of overlooking the right to education, and in contravention of international human rights law.

No evidence was found that Booroobin did not care for or breached a duty of care to its students; or that Booroobin was unsafe; or that the health of its students had been at threat. In fact, the (unreported and yet far more relevant) chemical free, organic environment, its high staff to student ratio and the accessible Law Book containing the Rules decided by Students and Staff that could be categorised as respect for people, respect for property and the environment and safety, supported by a system of justice accessible to all, afforded everyone on campus with precisely the opposite, benefits – of great care and concern about every individual; of clean air, good light, a sufficient, broad range of resources including 1 computer for every 2 people together with an accessible, significant range of CD based learning software covering all age ranges and most Key Learning Areas and rostered internet access, pleasant surroundings including pieces of art, especially by Students, colours and a built environment conducive to people based on Feng Shui principles, and a natural, continuously improving, clean, green, sustainably managed environment producing its own food; and of generally good, improving health of all the people with little absenteeism.

Parents' views of all the grounds given by the Queensland Non-State Schools Accreditation Board, as contained in their collective Submission<sup>37</sup> and in individual letters from most parents<sup>38</sup> of enrolled student children ought to have been heeded, and acknowledged, and their prior rights to choose the kind of education for their children according to their personal

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<sup>37</sup>Letter from parents of students at the school in response to the Non-State Schools Accreditation Board's Proposal to Cancel Accreditation of The Booroobin Sudbury School submitted June 23, 2003, attached

<sup>38</sup>Letters from Joy Marshall, Paula Whyman, Jo-anne Sheppard, Jackie Montgomery, attached

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(rights based, democratic) values and beliefs accepted, but they were not.

*Universal Declaration of Human Rights:*

Parents have a prior right to choose the kind of education that shall be given to their children.

*UNESCO Convention against Discrimination in Education 1960:*

The State Parties to this Convention agree that:

(b) It is essential to respect the liberty of parents, ..... firstly to choose for their children institutions other than those maintained by the public authorities but conforming to .... minimum educational standards, and secondly, to ensure .... the religious and moral education of the children in conformity with their own convictions.

*International Covenant on Economic, Social and Cultural Rights (1966):*

The State Parties to the present Covenant undertake to have respect for the liberty of parents .... to choose for their children Schools other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions ....

*International Covenant on Civil and Political Rights (1966):*

The State parties to the present Covenant undertake to have respect for the liberty of parents .... to ensure the religious and moral education of their children in conformity with their convictions.

*Convention on the Rights of the Child (1989)*

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States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

No part of (articles 28 and 29) shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions ....

### Human rights in educational content

The School has consistently referred to Natural Learning, and a Natural Learning Curricula, involving the development of whole of life skills, study and research, that is directed to and by the whole person who is respected as an equal, even if not as life experienced as others. In an educational environment where everyone knows they have rights, including human rights, and are able to make choices, with the full knowledge of parents in the case of Students, and knowing that choices and personal responsibility involve consequences, Students have consistently chosen to learn naturally as opposed to selecting the available Queensland State Curricula, while experiencing and also learning through the democratic mechanisms that are reflective of the free enterprise, open, civil, democratic Australian society, and through which they are learning about themselves and the world around them, and gradually narrowing their range of interests. The success, to date, of Graduates and past long term Students who completed their years of Schooling at Booroobin has supported the Founders' beliefs, trust and respect for young people in general that they have the ability to learn to become independent at School and develop into effective adults with diverse interests, knowledge and skills coupled with high emotional intelligence and a developed work ethic, who contribute to and not take away from the Social and Human Capital of the wider community. These past Students, along with younger long term enrolled Students, are also demonstrably fulfilling the aims of the Adelaide Declaration of National Goals in education in the 21<sup>st</sup> Century. This is entirely different from education systems that work from the bases of reward and punishment for following or not following the directions of others. Punishments in such systems can sometimes only lead to exclusion from School in some way if it is related to not accepting

direction to only learn from set curricula. As Booroobin is focused on the learner and learning, exclusion through expulsion has not happened, when Students are evidently learning as demonstrated through personal changes and adapting to the School's community norms, including the School community's democratically decided Rules as detailed in the accessible Law Book and Management Manual. The Rules contained within the Law Book provide a good guide for the nature and culture of the School community. These Rules are not simply the casting of responsibility of some people onto others. The Rules give rights along with responsibilities. A far higher level of respect is due to the Student and Staff, whose constitutionally delegated responsibility it is to consider Motions, debate and decide all Rules over 2 School Meetings, coincidentally in a parliamentary fashion, which they have done since the day the School commenced in February 1996, when no Rules existed. This respect and trust, and free, equal and just process is given by parents when they take the several steps necessary to enroll their Student children and pay Fees for their attendance. The Law Book and Management Manual has been provided to Education Queensland, the Minister for Education or their agents on a number of occasions, most recently in April 2003. This is supported by the Objects of the Constitution, enacted in its day to day operation by the School, including "*Object 3.9 To acknowledge and support racial, social, cultural and religious diversity and to encourage the equal treatment of all people irrespective of race, religion, gender, age, ability, sexual preference, political orientation or economic background.*"

The Booroobin Sudbury School complies with the following international human rights laws.

*UNESCO Convention against Discrimination in Education (1960)*

The State Parties to this Convention agree that (a) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms; it shall promote understanding, tolerance and friendship among all nations, racial and religious groups, and shall further the activities of the United Nations for the maintenance of peace.

*International Covenant on Economic, Social and Cultural Rights (1966)*

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The State Parties to the present Covenant .... agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

*Convention on the Elimination of all Forms of Discrimination against Women (1979)*

State Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on the basis of equality of men and women .... (c.) The elimination of any stereotyped concept of the roles of men and women at all levels, and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods ....

*Convention on the Rights of the Child (1989)*

State Parties agree that the education of the child shall be directed to (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential; (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c.) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate and for civilisations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; (e) The development of respect for the natural environment.

Children's rights to be heard, impart information and express their views on matters that affect them

Parents enroll their student children in Booroobin with the full knowledge that their children are afforded human rights, and therewith the ability to make choices. They are aware that Staff are available to teach to the available Queensland State Curriculum, as well knowing that many Students choose natural learning activities instead, free from coercion, threats, sanctions or punishments by the school, and study, research, discuss, debate, present motions and submissions to School Meetings and Budget Committees, seek assistance from other students, or Staff or parents or Tutors approved by the School Meeting and establish autonomous School Corporations with others with approval of the School Meeting in pursuit of knowledge about their own interests and the democratic mechanisms of the school in which their student children will be involved. Parents are aware they can talk with staff at any time about any matters about their student children, with their student children present. A range of options are available to parents to attend meetings, to assist at school in order to know what their student children are doing with their time. These options are advertised. Parents of enrolled students who are parties to Enrolment Contracts and pay Fees are satisfied with the School. They have the option to withdraw their student children at any time they are not satisfied.

The right of children to choose and participate in decision making about those things that affect them and their ability to exercise freedom of choice to decide the kind of education they would like is recognised by the CRC. Students and staff have academic freedom.

Booroobin is wholly focused on learners and learning, and running its business as smoothly as possible to allow learning to happen. Booroobin supports young people in their preparation for life as effective adults. It hopes that Students at School are generally happy. These comply with a rights based education and international human rights law.

Human rights are focused on the learner, just as Booroobin's focus was on its enrolled

Students. With human rights underpinning the planning and operation of the School by parents, their children, and teachers, this led to a much improved educational environment along with other factors such as a specifically selected campus offering a natural learning environment, together with resources decided and purchased by or donated by many good intentioned members of the wider community to the School community, supported by Staff selected according to a range of definitive criteria and elected to their roles. Rights based democratic education ensures that Booroobin's students not only were assured their rights at school, but they fully experienced the rights and benefits of an open, civil, democratic society at school – rights that were not available to them elsewhere. Some parents, in particular regarded Booroobin as a place of respite for their Student children, where they could recover the effects of other educational institutions on them, without telling the School, and when they had recovered their self esteem, were prepared to look adults in the eyes, found they had a voice that people would listen to, were respected, could smile, and were trusted, treated fairly and justly, or reduced or completely eliminated their courses of drugs and stabilised, and learnt more about personal responsibility and independence as opposed to dependence based education, withdrew their Student children and sent them again into mainstream education. It was undoubted that they would do well, because most were highly intelligent when they enrolled, and when they left.

The views of children about the effects on them of assessments and inspections was not sought and ought to have been. The beneficial effects on students learning at Booroobin or any other School ought to be part of any unbiased, impartial, professional assessment, but wasn't. Children's voices regarding the alleged absence of natural justice and procedural fairness in the processes and decisions to cancel their school's accreditation are completely absent from the judicial hearings. The Submission from all the Students of the School addressed to the Hon. Anna Bligh, Minister for Education that they initiated, debated, decided and wrote<sup>39</sup>, received no comment or acknowledgment from either the Non-State Schools Accreditation Board, who were undoubtedly acting only in terms of the governing legislation but in ignorance of their higher responsibilities under international human rights law as a

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<sup>39</sup>Students' Submission dated September 18, 2003annexed hereto

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Statutory Board of the Queensland State Government, or the Minister for Education or the Panel of secretly appointed people formed to advise the Minister. In that Submission they clearly expressed the view they had chosen not to accept an imposed curriculum (“..... we are all independent people who are capable of taking responsibility for our own learning. We know where we want to go in our lives, and are pursuing our interests“. “We don't want to be judged by others, categorized into age groups, told what to learn, how to learn, and when to learn it.”) and stating “We feel we have learnt more being here than we did in any other School”. They requested the Minister “... to allow our school to continue running”. Students views were not sought when they walked 100kms over 26 hours, with the support of staff, parents, family and friends, to the Queensland Parliament House after weeks of training to deliver letters of support and Petitions to the Queensland Minister for Education.

Despite a range of so called behavioral, learning and other factors and reasons for students leaving other schools to enroll at Booroobin, only one student was refused enrollment from 1996 to 2003. No Student has ever been expelled.

### *Universal Declaration of Human Rights*

.... the United Nations has proclaimed that childhood is entitled to special care and assistance  
....

.... convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community ....

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding ....

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in

particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity, ....

....Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child ....

*Convention on the Rights of the Child (1989)*

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

States Parties shall respect the right of the child to freedom of thought, conscience and religion.

Academic freedom and institutional autonomy

*Staff and students throughout education are entitled to academic freedom under Article 13 of*

the International Covenant on Economic, Social and Cultural Rights. This has been firmly stated by the Committee on Economic, Social and Cultural Rights (CESCR) of the United Nations Economic and Social Council<sup>40</sup>. These rights in international human rights law must be implemented by governments at all levels. Except for receiving government recurrent funding for only part of its operating costs, which, if asked, it does not want, Booroobin was autonomous, and submits that its Staff and Students must be afforded these fundamental rights.

The evidence is readily available that educational freedom does not lead to an absence or learning or off laziness. A long list of diverse, real life based, holistic, learning activities in which some 14 students engaged during 2002<sup>41</sup> has been supplied. Unlike other education providers where activities are arranged for Students, Booroobin has always prided itself that its Objects have been implemented, because a rights based, democratic education supports students developing initiative, enterprise, self assessment through self directed learning. Those activities listed, whilst supported by Staff and the School, at times through its democratic mechanisms, were variously researched, studied, discussed, debated, decided, planned, arranged, organised and sometimes funded by Students. These activities did reflect more than minimum educational standards. These activities reflected more than the 8 Key Learning Areas, and were age and experience related, because the Students undertook the activities. Those activities that not all students participated in, they were nonetheless exposed to through observation and the open, direct verbal and non-verbal written communication that existed within the School. It is these self directed, self initiated, self assessed real life based learning activities that students have chosen, with their parents support, that have contributed to long term Students' and Graduates' achievements in life, further education, work and enterprise after School. The only comment of the Board seemed to be a criticism of a couple of the activities.

Booroobin is a self managing, learning community which is serious about its role in supporting its students, staff and parents in lifelong learning. The School had high standards and

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<sup>40</sup>CESR 21<sup>st</sup> session November 15 to December 3, 1999, attached to Booroobin's Submission dated June 23, 2003.

<sup>41</sup>List contained within June 23, 2003 Submission, attached

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expectations of its students. The State must reconcile its role in exercising power, control and direction with that of an independent School which is autonomous and is not reliant on the State. Parents who founded the School and choose Booroobin for their Student children do not need the State to direct the School to do certain things to their children, when they did not choose the School for those reasons. Booroobin has consistently applied *Object 3.8 To create and maintain a flexible learning structure in The Booroobin Sudbury School so that students will be free to adhere to traditional learning pursuits or create new ones.* of its Constitution. It is in the best interests of each child to acknowledge they learn differently, at different rates and at different ages. There has never been an expectation by the School that Students will direct their own learning in such a way as to conform to mainstream processes, which most Students and their parents have experienced and exercised their rights and freedom of choice, to make a purposeful, informed decision to select Booroobin, based chiefly on *curricula which is determined by the interests of students and staff, in which equal status shall be given to all pursuits.* and *Object 3.7 To provide a learning environment based on the principle that learning is best fostered by self-motivation, self-regulation and self-assessment.* Academic freedom must similarly reflect that there is more than one way to achieve desired educational outcomes.

Assessments have frequently resulted in reports that challenge and at times provide derisory and critical comment about the judgments and work of Booroobin's Staff, including most particularly its Queensland Registered Teachers. The Assessors and Board, for instance, made critical comment about Students' learning activities, which Booroobin's Staff were fully aware and supportive of, such as "to play Lego" which were nevertheless in the best interests of the child at the time and their stage of development. The Assessors and Board were similarly critical of Booroobin not having records that they may be accustomed to in other Schools. Whilst results of Students' study, research and learning by Students is at times in a recorded form to suit their needs it is not always in a recorded form. There are also records of Centre of Learning Meetings Minutes, Justice Committee Hearings, Centre of Learning Corporations Minutes and Committee meetings Minutes.

The human rights based education environment at Booroobin enables students to take control

of their lives, and become independent, with Students self assessing their progress and gauging what further work is warranted to achieve their desired goal. Rights cannot be given on the one hand and then taken away arbitrarily because the State wants programs, records and assessments of Students by Staff. It is enough for parents, the School and its Staff to respect and trust Students to direct their own learning, according to their needs, and with the support of the School, other Students, its Staff, parents and tutors, if and when necessary. Students, whose critical thinking, views, voices and votes are integral to their self directed learning readily describe to interested listeners what activities they do, and what they believe their achievements are.

Booroobin asserts that the knowledge by its Staff of Students and their needs is far greater than that of assessors (who are restricted to assessing in accordance with the letter of the legislation and whilst they have experience in mainstream State Schools, have little or no knowledge of this School and its educational philosophy or of human rights) who ordinarily visit for no more than a few hours in 1 day occasionally, and that Staff accumulated day to day knowledge of Students built up over years must to be trusted and respected. Parents and students respect and accept the Staff, who must perform to the Terms and Conditions of their Employment<sup>42</sup> and definitively described Staff requirements, as they have no tenure and are subject to annual performance reviews and elections by secret ballot.

### Specific legal obligations

Booroobin provided an educational model that fulfilled governmental legal obligations under various international treaties of availability, accessibility, acceptability and adaptability. Instead of withdrawing accreditation of an independent School, the Non-State Schools Accreditation Board ought to work with the School, and its representatives, to work on arriving at a concrete agreement, that is mutually acceptable in terms of human rights, the Adelaide Declaration and legislation.

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<sup>42</sup>The Terms and Conditions of Employment for Staff of The Booroobin Sudbury Democratic Centre of Learning attached

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In relation to article 13 (2), of the *International Covenant on Economic, Social and Cultural Rights* the CESCR stated:

States have obligations to respect, protect and fulfill each of the “essential features” (availability, accessibility, acceptability, adaptability) of the right to education. By way of illustration, a state must respect the availability of education by not closing private Schools .... So in answer to the rhetorical question: why democratic values and human rights are so important and worth fighting for?

The answer is that human rights underpin everything. If our rights are not enacted through legislation, and exist only in International Human Rights Law, to which it is difficult to seek redress, then we must take these rights. We will seek redress. Simply existing with all the responsibilities imposed on us through legislation, is not enough. There has to be a balance. All our rights are vital to ensure we benefit from democratic values of freedom, responsibility, equity, justice, respect and fairness. The values are meaningless unless we have our rights. It should not be assumed that Booroobin will simply accept that the School, its students, staff and parents did not have the rights it was entitled to. These rights must be written into legislation. In Queensland, the relevant legislation must be amended. The legislation is also discriminatory, because State Schools, State employees, and young people in care, custody or institutions now enjoy more rights than non-state schools and their staff, students and parents.

The denial of our rights at Booroobin has been very costly. At the same time, it has been liberating – the government has helped some, if not all, of us realise real independence. It will lead to a sustainable future.

*Derek Sheppard*

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