



**Submission
To
Senate Education and Employment References Committee**

**Inquiry into the impact of Australia's temporary work visa programs
on the Australian labour market and on the temporary work visa
holders**

Dear Senators

The National Tertiary Education Union (NTEU) represents staff employed in Australia's higher education sector, at university, vocational education institutions, research institutions and student organisations. While the Union acknowledges that there are a multitude of different temporary work visas, our submission will focus on the use of the **Temporary Graduate Visa (subclass 485) Post study work stream** as this is an area unlikely to be reviewed in other submissions. These visas are being used as a way to boost international student numbers and grow the sector, but are of particular concern to the NTEU, due to the already **high levels of exploitation of international students as workers in this country and the lack of knowledge and understanding by international students of workplace rights and laws, including OH&S, minimum wage and conditions.**

International education is an important component of the higher education sector, and provides exposure to cultural diversity and best practices from other countries. This enriches Australian education perspectives and practices, which in turn contributes to the country's international competitiveness. However, with the chronic public underfunding of universities and the continued failure by the Government to deliver a realistic, sustainable and equitable funding model for universities, there is a strong incentive for both the sector and the Government to view international student numbers as a solution to our universities' funding difficulties. Furthermore, while universities look to international fee income as a way of subsidising their domestic teaching and research, the Government is promoting international

students as “...a desirable potential source of skilled labour and can make a significant contribution to Australia's economy.”¹

It is this thinking that has seen the recent introduction of a new Temporary Graduate Visa (subclass 485) Post study work stream. The aim of this is to offer extended options for working in Australia to eligible international student graduates of a higher education degree, allowing successful applicants to be granted a visa of two, three or four years duration, depending on the highest educational qualification they have obtained.

Indeed, the Governments' recently released White paper on developing a new international education strategy specifically outlines ways to increase the number of international students working during, and after, their studies. This includes the commitment that the Australian Government will:

- work with institutions to provide information about the work eligibility of international students and graduates to build employer awareness of the benefits of engaging international students in their organisations and help promote their employment
- gain a better understanding of the factors preventing students from participating in work experience programmes and post-study work arrangements
- ensure Australia's visa settings enable international students to gain valuable work experience both during and after study.

Institutions are encouraged to (if they don't already)

- provide important on-campus career advice services and are improving these services, including based on international examples of best practice
- work with employers and peak business and industry bodies to expand the potential, scale and breadth of relevant work-integrated learning opportunities for international students and graduates, including through the National Strategy on Work-Integrated Learning in University Education
- work with the Australian Government to provide information about work eligibility to employers to help promote the employment of international graduates to Australian businesses and industry

While the White paper makes mention of encouraging institutions to “*keep international students well informed of their work rights under Australian law*”² the reality is that, given the

¹ Commonwealth Government, *Draft National Strategy for International Education* (for consultation) April 2015. Canberra, pg 40.

² Ibid, pg 42

current levels of international students reporting exploitative practices by employers, this is clearly not the practice for many (if not the majority) of education providers, who (at best) may have a link on a webpage to Fair Work Australia (in the same way the Government does with its visa information pages).

It has been estimated by the OECD (2008) that through the coming two decades the number of students studying outside their own country at any one time will pass twenty million. A 2008 report³ by Nyland entitled *International Student-Workers in Australia: A New Vulnerable Workforce* estimated that there were some 300,000 international student workers in Australia in 2007/2008. As of this year, there are just under 600,000 international students in Australia at any one time, with the majority in universities, VET and English language course (ELICOS). With the support of the post-study work stream visa and other initiatives, the Government has made it clear in its White paper that it intends to increase the number of international students studying and working.

While working when studying for most students is a necessity, Nyland confirmed that international students were a highly vulnerable and exploited workforce. Research has shown student workers in general to be at risk due to their limited work skills, high unemployment and under-employment, and poor knowledge of their rights⁴, and thus at risk of abuse and injury⁵, it is clear that this situation is exacerbated for international students, who have the additional burdens of having relatively poorer language skills, lack of local family support and cultural knowledge, and in many cases, inadequate non-wage income support.

The Nyland study also found that in addition to these burdens, many international students were crowded into a narrower range of jobs than is available to their domestic peers, and they commonly off-set their disadvantages by working for less than the legal minimum wage.⁶ The White paper makes reference to the fact that international students may be

³ Nyland, C, Forbes-Mewett, H, Marginson, S, Ramia, G, Sawir, L, Smith, S 2009, 'International Student Workers in Australia: A New Vulnerable Workforce', *Journal of Education and Work*, 22(1): 1-14.

⁴ McDonald, P., Bailey, J., Oliver, D. and Pini, B. (2007) 'Compounding Vulnerability? Young Workers' Employment Concerns and the Anticipated Impact of the WorkChoices Act', *Australian Bulletin of Labour*, 33(1): 60-89.

⁵ CHSICL, Committee on the Health and Safety Implications of Child Labor, National Research Council of Medicine (1998) 'Protecting youth at work; Health, safety and development of working children and adolescents in the United States', Washington, D. C.: National Academy Press.

⁶ Interestingly, the report also found that few of the international students interviewed believed that the difficulties they experience in the workplace to a product of racism. The report presumes that this perspective is at least partly explained by the fact that many employers who pay international students less than the legal rate are of the same ethnic background as those they exploit.

willing to work in areas or in jobs that are “not necessarily in demand from domestic students” and that institutions are well positioned to provide “local work experience opportunities” for international students⁷. The report also found that international students had little knowledge of or even understanding of health, safety and other rights in the labour market and workplace or the protections to which they are entitled and the agencies that could assist them in dealing with breaches of these rights.

More recent reports have confirmed that international students are still being exploited in workplaces. A Fairfax media investigation in January 2015 found international students being paid as little as \$8 an hour by employers, including nearly 50 international students at one English language school being paid below the minimum wage of \$16.87 an hour.

In 2014, the Fair Work Ombudsman (FWO) in NSW recouped \$1.1 million in wages and entitlements for about 700 visa holders last financial year. The FWO noted that foreign workers were often not fully aware of their workplace rights under Australian laws and youth, language and cultural barriers made them vulnerable to exploitation.

The Fairfax media report noted that in addition to be widespread, the exploitation of international students as workers appears to be growing, with the President of the Council of International Students Australia (CISA) Mr Thomson Ch'ng, quoted as saying

...the problem was widespread and many students were "distressed and despaired" about how to cope.

It is too common to the point where everyone thinks it is OK," he said. "The government and industry are encouraging more and more international students to come to Australia and that makes the situation worse because the demand for jobs is going up but there is little supply out there. That leads to the point where students are willing to engage in this environment."⁸

The 2007 Nyland was scathing in his assessment of the situation faced by international student workers and the lack of action by governments and the education sector, noting that:

We hold that the existing lack of balance is unacceptable and given our interviews present evidence that international student-workers are highly vulnerable we insist there is an urgent need to match the nation's effort at

⁷ Commonwealth Government, Op cit, pg 40

⁸ SMH *International students forced to work for just \$8 an hour* Jan 17 2015
<http://www.smh.com.au/national/education/international-students-forced-to-work-for-just-8-an-hour-20150117-12rwuo.html>

building the international education industry with a comparable effort designed to protect the employment rights of international students who choose to work and study in Australia.... we suggest this strategy requires the creation of a comprehensive surveillance system that can generate relevant information and that this regime should involve Federal and State departments, education suppliers, unions and employers. Information generated should at the very least be sufficient to enable these agencies to track and investigate injuries and injustices suffered by international student-workers, the number employed, where they work, and their conditions of employment.⁹

However, while it seems that the exploitation of international students as workers is commonplace, the response from Government has been minimal. The White paper states that the Government is planning on undertaking research into the employability of international students, but limits informing students of their industrial rights to a brief summary (essentially, listing 4 general industrial entitlements) on government websites, and a link to the Fair Work website.

Given problems associated with the current levels international students being underpaid or not aware of their entitlements, the response by government is, at best, inadequate. If we are to see an expansion of the numbers of international students working in Australia, then it is a recipe for not only widespread exploitation, but the undercutting of conditions and entitlements for all young workers. It also risks the reputation of Australia's international education sector, particularly with the linking of study in Australia with the post-study work stream visa – which has no restrictions or employment checks. Indeed, if anything, there seems to be a desire by both government and industry to promote international students as workers to employers (see attachment 1), despite the current rate of youth unemployment in Australia at its highest level since 1998¹⁰.

We understand there is an eagerness, both within the industry and in governments, to see further growth in international education. However, there is a danger in not only relying on international students for fee income, but as a transient workforce with little understanding of their rights and entitlements as workers. Furthermore, these young people are inexperienced as workers, often have language and cultural barriers, and many come from countries where membership of a trade union is risky (or illegal), or are part of the operations

⁹ Nyland, Op Cit, Pg 17.

¹⁰ Figures from the Australian Bureau of Statistics (ABS) for January 2015 found that youth joblessness has reached its highest peak since 1998, with 14.2 per cent of 15-24-year-olds looking for work and one in five 15 to 19-year-olds unemployed.

of the State. It is therefore not surprising that many easily find themselves in situations where they are being exploited and/or exposed to workplace hazards.

While tying the post-study visa stream to Australia's international education marketing and promotion may appear to be an excellent strategy, the support for these students as workers is woefully inadequate. It should be noted that we are inviting these students to come, study, live and work in this country, and as such we have a duty of care to them. Allowing their exploitation as workers, be it as current students or whilst under the post study visa stream as graduates from Australian institutions, fails in this duty of care. As a minimum, more must be done to inform and support international student workers, educate and monitor employers, and actively prosecute cases where employers have exploited their student workers.

Yours Sincerely

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