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International Student Welfare in Australia

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Executive Summary

International education in Australia has undergone enormous growth in the previous decade, making it the nation's third largest export industry. In considering our population and economy in relation to our main global competitors, Australia's contribution to international education is quite remarkable. Bearing in mind the vast economic wealth generated from this industry, we have thus far failed to reinvest this capital to ensure that international students enjoy a high level of welfare and support during their time in the country. With student numbers declining since 2009, the reaction of governments has been to employ aggressive marketing strategies in the Asian region, rather than addressing vulnerabilities that exist in the current Australian international education regime.

This report has been compiled by independent research, carried out in conjunction with International Social Service Australia and the University of Melbourne. Its purpose is to provide a broad snapshot of the Australian international education industry and to identify key areas of concern for international student welfare.

The report has discovered that while the current regime focuses on protecting the consumer rights of students, it is far from adequate in protecting their human rights. International students in Australia are in many circumstances significantly disadvantaged when compared to their domestic counterparts. This report argues that due to Australia's commitment to human rights more should be done to support the welfare of international students in Australia. It is also of the belief that ensuring international students have exemplary experiences in the country is the best method for protecting and growing the industry further.

The report's main focus areas are health care, legal services, physical safety, community engagement, employment, financial considerations and accommodation. In all of these areas significant gaps have been identified and recommendations for improvement offered. The remedy to the issues does not fall to one body, but rather will require the collaborative effort of governments (both state and federal), private enterprise and civil society. The focus of the report is primarily on pragmatic, immediate solutions, however some direction is provided for broader reform. It also recognises that many areas of international education remain under-researched and a more concrete understanding of these areas is required before effective reform can be designed and implemented.

Finally, the report argues that a paradigmatic shift is required from thinking about international students in economic terms, to considering them in human terms. Doing so will aid us in recognising the vast potential this international migration has to enrich Australian society.

Introduction

A snapshot of international education in Australia

The international student industry in Australia is a lucrative and complex one. This introduction provides a snapshot of the current state of the industry in Australia as well as identifying who is in charge of key responsibilities.

International education is Australia's third largest export industry and amounted to $16.3 billion dollars in 2010-2011 (Australian Bureau of Statistics 2011). It has also been estimated that the industry has been responsible for the creation of 120,000 EFT Australian jobs (Universities Australia 2012). In 2011, a total of 557,425 international students enrolled at Australian education providers which was a decline of around 9.5 per cent on the previous year, and a total drop of approximately 11.6 per cent from the peak in 2009 (Australian Education International 2012). These applications were spread across higher education (242,351), VET (171,237), schools (20,868), ELICOS (95,104 - English Language Intensive Courses for Overseas Students), non-award courses and enabling courses (27,865). Despite the recent decline, we have essentially seen a doubling of international student enrolments since 2002 and the industry has become a crucial revenue stream - especially in the non-resource rich states (Australian Education International 2012). In 2011, New South Wales accepted the greatest number of enrolments (208,847), while Victoria accepted the second greatest (162,417) (Australian Education International 2012).

International students represent an attractive earning opportunity for institutions when compared with domestic students. While local students (especially at the university level) often enrol in Commonwealth subsided positions, or utilise Commonwealth loan schemes such as HECS and FEE-HELP, international students generally pay full fees upfront. It is within this landscape that the recent downturn in total enrolments has been treated with a high level of alarm at both the governmental and institutional levels. There are varying theories as to the primary cause of this decrease and most likely it is the result of a variety of factors. In an article in *The Strait Times* (notable as a Singaporean source, a country which provides Australia with a large number of international students), Pearlman (2012) highlights 'the strong Aussie dollar, the 2008 global financial crisis and concerns about student safety'. Ross (2012) adds 'migration cutbacks' and 'a prohibitive visa regime' as detrimental factors. The Commonwealth Government has clearly recognised the importance of maintaining a strong international education sector as evidenced by the production of the Baird, Knight and Bradley reviews, along with a variety of reports from AEI which will be referred to in this paper. Already we have seen change with the announcement of relaxed student visa conditions for 29 countries, which took effect March 24, 2012 (ABC: Radio Australia News 2012).

Education providers in Australia are calling for more public investment to strengthen the industry. The National Tertiary Education Union is running an ongoing campaign calling for increased public funding for higher education institutions to raise it to one per cent of Gross Domestic Product. One of the key issues they cite is 'an over reliance on international student fee income, which recent research shows has been used to cross-subsidise the education of domestic students and research at our universities' (National Tertiary Education Union 2011). Emeritus Professor Denise Bradley's (2008) review of higher education commissioned by the Department of Education, Employment and Workplace Relations (DEEWR) also called for increased and more targeted

Commonwealth investment into educational providers which prompted an additional $5.9 billion of funding in the 2009 Federal Budget. Australia currently invests the least amount of money in higher education of all the OECD (Organisation for Economic Co-operation and Development) countries (Ryan 2012).

Australia has one of the highest percentages of international student enrolments in the world. In 2009, 22 per cent of all tertiary students were international, at that time the highest of any OECD nation (Australian Bureau of Statistics 2011). Australia's main competitors in the English-speaking world are the United States of America and United Kingdom. When we consider comparative population size and the number and reputation of institutions in these nations, Australia is doing remarkably well taking in around 10 per cent of global education export revenue (Verbik 2007, p. 8). Despite the recent downturn in enrolments some have predicted a continuing rise of international students in Australia, as many as 50,000 more by the year 2020 (Coughlan 2012). Ly Thi Tran (2011, p. 79) has highlighted the competition to this expansion, 'Apart from the options of study in other English-speaking countries, the major threats to the current Australian share of international student market are coming from some Asian countries such as Singapore and Malaysia'. China also boasts a rapidly growing education sector - between 1978 and 2006 they established 1269 new tertiary institutions. The proportion of Chinese people enrolled in tertiary study increased from 3.4 per cent to 22 per cent between 1990 and 2008 (Universities Australia 2012).

China is currently the largest source country for international students in Australia totalling 159,691 in 2011. India is the second largest with a total of 72,801 in 2011 (Australian Education International 2012). This is down significantly from its peak of 120,488 in 2009; in no small part due to safety concerns after a number of Indian students were victims of violent and widely reported attacks during this period (Russell 2009). Malaysia (22,836), The Republic of Korea (29,933) and Vietnam (23,738) are also prominent source nations (Australian Education International 2012). Asian students comprise the majority of total international students and Australia's geographic position grants it a distinct advantage in attracting students from this region.

As indicated by the statistics above, the international education market in Australia is a large and diverse one which incorporates a variety of providers. The disparate nature of the system is matched by varying degrees of research into each area. Higher education is the single largest accepter of international students (242,351 in 2011) in Australia and the majority enrol at one of the nation's 39 universities (Knight 2011, p. 27). In 2010-11, higher education generated $9.4 billion in export income (Australian Education International 2011). It is also the area of international education with the greatest wealth of academic writing, however the vast majority of this literature explores international education in the United States and United Kingdom (Marginson, Nyland et al. 2010).

The Vocational Education and Training sector comprises the second largest international student cohort (171,237 in 2011). In 2010, 533 providers offered VET courses to international students, these included: 'nine public universities which also provide VET courses, publicly listed companies, private companies, non profit organisations, components of multinational education providers, trade union and industry association training organisations, and family businesses' (Knight 2011, p. 57). The VET sector generated $4.1 billion in export earnings in 2010-11 (Australian Education International 2011). This broad group of providers offer varying levels of student support and holistic, industry-wide research is slim.

The third largest sector is English Language Intensive Courses for Overseas Students (ELICOS - 95,104 in 2011). This sector generated $801 million in export revenue in 2010-11 (Australian Education International 2011). ELICOS is unique in that courses are generally short-term and there is a flow on of students to other sectors of the international education system. In 2009, 27 per cent of students enrolled in ELICOS courses went on to further study at an Australian higher education provider and 33 per cent enrolled in a course in the Australian VET sector (Knight 2011, p. 63). Another unique aspect of this sector is that due to the brevity of courses, students enter on a variety of visas. In 2010, 60 per cent of ELICOS students entered the country on a student visa, 23 per cent on a visitor visa, 13 per cent on a working holiday visa, and 4 per cent on other visas (Australian Education International 2010). While the ELICOS sector has mirrored the others in terms of a total decline in international enrolments, this has been dampened somewhat by students on working holiday and tourist visas (Lane 2012). When the discussion moves to student welfare in the next section, ELICOS will generally be considered a lower risk area due to the short-term nature of courses. That being said, the large number of students who go on to further study fall into the areas of concern which are addressed in the report.

The fourth largest sector is schools, both primary and secondary. This sector generated $633 million in export revenue in 2010-11 as international students are usually required to pay tuition in both the private and public systems (Australian Education International 2011). Empirical research in this area is once again quite scarce and due to the nature of student minors there are concerns here that deserve further exploration. The Hon Michael Knight AO's (2011, p. x) review of the international student visa system evaluated that, 'The schools sector is relatively small and appears to be functioning well'. 'Generally school students are a low risk group. The cohort that most concerns me is undertaking secondary education outside of the traditional public and private school milieu. I believe that sub-sector does require some special attention' (Knight 2011, p. 71).

The final sector is non-award and enabling courses (27,865 students in 2011) which accounted for $570 million in export profit in 2010-11 (Australian Education International 2011). This is an ephemeral sector existing within many of the institutions we have discussed as well as private colleges. The risks associated with students undertaking these studies will be similar to those in the other sectors.

Student welfare

The existing regime of international student welfare is based on a system which Simon Marginson et al. (2010, p. 66) have classified as 'the student as consumer'. They write that 'in countries providing international education on a commercial basis, such as the UK, Australia and New Zealand, the student is imagined and regulated as a consumer in a contractual relationship with the provider of educational services (Marginson, Nyland et al. 2010, p. 66). After being allowed into the country by immigration the responsibility for the student is passed from the Commonwealth to the education provider. There is no contract between the student and the Commonwealth. Marginson's positioning of the international student experience through the prism of security studies is certainly the most interesting Australian work on the topic and his arguments will be referred to broadly throughout this report.

The central piece of legislation which governs the international student industry in

Australia is the Education Services for Overseas Students (ESOS) Act. The Act's primary focus is consumer protection for international students. Within the ESOS Act, the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students lays out the obligations of education providers to government and students. The only section of the National Code specifically related to student welfare falls under Part A, 'Objectives' 3.1 c:

> Protect the interests of overseas students by:
> i. ensuring that appropriate consumer protection mechanisms exist
> ii. ensuring that student welfare and support services for overseas students meet nationally consistent standards; and
> iii. providing nationally consistent standards for dealing with student complaints and appeals (Australian Education International 2012).

The specific implications of these limited guidelines for ensuring international student welfare will be discussed in detail later in the report. Marginson (2010, p. 67) argues that the 'student-as-consumer' paradigm subjugates international students to a level of welfare which falls below Australia's human rights policy. He juxtaposes our commitment to the Universal Declaration of Human Rights with the current legal framework where 'rights are seen as nation-bound and Australian citizens are superior on their own soil…International students are imagined as aliens with no rights other than consumer rights donated by the host nation' (Marginson, Nyland et al. 2010, p. 67). The entitlement to support services available to Australian citizens as opposed to international students will also be detailed specifically later in the report.

The ESOS Act and the National Code are monitored by the Department of Education, Employment and Workplace Relations. Consistent with the majority of the Act's content, DEEWR identify their focus area being 'student visa integrity and consumer protection' (Australian Education International 2012). Interestingly, the original implementation of the ESOS Act was overseen by Australian Education International (AEI), the Commonwealth department also responsible for marketing our education industry abroad. Marginson (2010, p. 225) highlights the conflict of interest here and suggests that it may have not have been in the interest of AEI to draw attention to issues of student safety and welfare ahead of consumer protection and educational reputation.

The anaemic provisions for student welfare protection within the framework have not gone unnoticed by actors at all levels of the industry. The Council of Australian Governments - *International Students Strategy 2010-2014* has dedicated a section to student welfare concerns and details both key actions to date alongside future plans for improvement in the area.

The key actions to date have been:
- An international student roundtable convened by the Deputy Prime Minister in September 2009 (a second round table took place in August 2011);
- Establishment by the Victorian Government of a hotline for international students to contact police for community safety information;
- Establishment by the Victorian Government of a 24-hour, multilingual care service (ISCS), providing advice to international students on a range of issues;
- Establishment by Victoria police of two reference groups to implement strategies for the police, Indian communities and international students to reduce the risk of violent crime;

- The New South Wales Premier's Council on International Education investigation of strategies to assist international students with local travel, greater engagement between the police force and education sector, student organisations and social initiatives;
- Increasing police surveillance in known danger spots and providing additional safety information;
- Facilitation by the Australian Human Rights Commission of local partnerships between educational providers, police, local councils and other networks to educate people about responses to violence and discrimination.

The future actions are:
- Production by all Governments of a Student Personal Safety Guide;
- Production by all educational providers of a Student Safety Plan;
- Increased monitoring of the visa provision that international students have purchased health insurance for the entire duration of their time in Australia;
- The development of a Community Engagement Strategy for international students;
- The establishment of an International Student Consultative Committee (Council of Australian Governments 2012, p. 10-15).

While these actions demonstrate some understanding of the major issues for international students, outside of Victoria there is little commitment to establishing actual new services for international students. In his 2010 review of the ESOS Act the Hon Bruce Baird AM (2010, p. x) proposed the creation of international student hubs where students could access information, referral and advocacy services in all capital cities. At the time of writing the Commonwealth has just completed their second phase response to Baird's review and thus far their implementation has not included these hub centres. The Baird Review was initiated after a 2009 Senate Inquiry into the welfare of international students. This review also established an International Student Taskforce within the DEEWR to provide support to the review of the ESOS Act (Parliament of Australia 2009).

At the most recent International Student Roundtable the group commended the Victorian ISCS and the International Student Legal Advice Clinic (ISLAC) and promoted the rollout of similar services in other states and territories (Australian Education International 2011, p. 4). The Commonwealth also recently commissioned a reform paper for the international student visa system which was completed by the Hon Michael Knight AO. The second stage implementation of this report has just been completed and the implications of this will be discussed later in the report.

At the state level, Victoria has been by far the most committed to the improving the welfare and security of international students. In addition to the actions proposed in the *International Students Strategy 2010-2014*, the Victorian Government in 2008 established an Overseas Student Education Experience Taskforce, which reports on a variety of issues affecting international student life. A number of international student groups were dissatisfied with their exclusion from the taskforce, most notably the National Liaison Committee, one of the largest advocacy groups for international students (Das 2008).

The final point to highlight in this introductory section is the vast benefits of having a well supported cohort of international students in Australia. The economic advantages have

already been stated, however international students have much more to offer. Universities Australia has noted the importance of student alumni taking key positions in their home countries and strengthening global ties with Australia:

> *By way of example, two of today's leading analysts of the Chinese economy, Yiping Huang and Xiaolu Wang, completed their doctoral studies in Australia. The Indonesian Minister for Trade studied in Australia and is currently an adjunct professor at an Australian university, and the Indonesian Vice-President holds an Honorary Doctorate from an Australian institution. Singapore's first directly elected Prime Minster, Ong Teng Cheong, is also an Australian university alumnus* (Universities Australia 2012, p. 1).

If students have a positive experience during their time in Australia they will share this with friends and relatives, strengthening the reputation of our education sector abroad. Word of mouth has the potential to be more effective as a means of increasing our global share of international students than traditional advertising and marketing (Khawaja and Dempsey 2008). It also has a flow on effect to the tourism sector where positive feedback from Australian experiences can influence travel choices. International students also provide opportunities for cultural interaction within Australian communities and enrich local students' learning by providing divergent knowledge and opinions.

When we reach the level of higher degree by research (HDR), the potential benefits go far beyond the financial or cultural. As Knight (2011, p. 47) contends in his reform paper 'for Australian universities the revenue from HDR students is almost incidental. The main driver for wanting HDR students is the talent, the skills and the research opportunities they embody'. By far the best way to ensure that international students continue to come to Australia is to provide quality support to match quality education. This report outlines some key areas of concern for international students and recommends changes which could help ameliorate the risk associated with them.

Scope of the project

This report is the product of independent research conducted in conjunction with International Social Service Australia. The aim of the report is to provide an overview of some of the key areas of concern for international student welfare in Australia and to provide recommendations for legislative change and potential support services to assist these students.

The report is largely a review of existing academic literature combined with government documents and media coverage. There has been an effort to provide Australian sources wherever possible and the inclusion of international references is only to demonstrate the global nature of a particular issue, or where no suitable Australian literature could be found. Indeed some of the recommendations in the paper relate to the need for further empirical research into a variety of aspects of the international study in Australia.

Independent data collection via survey or other methodologies were beyond the scope of this project. There was some consultation with stakeholders including international students and support service providers, however these discussions were conducted only to enhance a background understanding of the issues involved.

While the report does not specifically limit itself to one area of the international education system, there is a bias toward higher education as this is currently by far the largest literature base. Much of the analysis can be applied to the VET sector, however the report is less valuable to school, ELICOS, and non-award providers. A greater wealth of empirical research into these areas is required before a report of this scope could provide accurate and useful evaluation.

The report recommendations are pragmatic in their approach and look more to addressing immediate needs, rather than overall reform of the regime. There is reference and consideration given to existing government reform papers and efforts to implement their recommendations.

Health concerns

Physical health care

The current system of health care is one of significant concern to international students. This section provides an overview of the health services available to international students and in particular emphasises gaps in the existing regime.

As part of their visa requirements all international students must purchase health insurance with an Overseas Student Health Cover (OSHC) provider (Department of Immigration and Citizenship 2012). At the time of writing there are five providers for international students to choose from. International students are not eligible for Medicare benefits which contrasts with the United Kingdom where students who are studying for six months or more can access the National Health Service (Marginson, Nyland et al. 2010, p. 190). As large organisations, universities tend to offer their own health services which are available to staff, local and international students. In the case of smaller education providers this is much less likely. Marginson (2010, p. 189) writes that 'the National Code does not require institutions to provide health services, only to inform students about what is available'. This is an important distinction as university health services tend to have a greater understanding of the cultural and linguistic sensitivities which may be required to treat international students when compared to regular health services.

While Commonwealth and state governments are reluctant to take on extra costs to ensure that international students have access to adequate care, they have identified issues with the current regime. The Council of Australian Governments' (2012, p. 12) strategy suggests that 'some international students cancel or allow their health cover to lapse after they arrive in Australia, leaving them at risk of being severely out of pocket if they need to access medical services'. Their solution is to strengthen visa conditions to ensure international students purchase healthcare for the duration of their study (Council of Australian Governments 2012, p. 12). This remedy ignores some of the root issues that exist within the OSHC system. Dental care and pharmaceuticals fall outside the OSHC provisions and all treatment relating to pre-existing conditions, apart from pregnancy, cannot be claimed in the first 12 months (Marginson, Nyland et al. 2010, p. 191).

Medical expenses must generally be paid upfront which can place enormous strain on student finances and may deter them from seeking treatment. While university students

have access to more flexible, tailored medical services, these will not be available 24 hours a day and in emergency situations they will need to use hospitals and private doctors (Marginson, Nyland et al. 2010, p. 191). In the 2011 *International Student Roundtable Communiqué*, the group called for an increase in specialised services, such as support for students with dependent children: 'There should be consistency in arrangement across States and better support for dependent children of international postgraduate students, especially given the increase in the number of these students coming to Australia' (Australian Education International 2011, p. 5).

Perhaps the greatest concern is that students with limited financial means are placed most at risk in the current regime. As is discussed later in the report, financially insecure students can be forced into unsafe situations through the need to accept inadequate accommodation and dangerous jobs. It is these students who will be most likely to allow their insurance to lapse, or who lack the upfront resources to access medical care. Rather than a broad tightening of visa requirements, there needs to be a more nuanced assessment of the medical needs of international students and a greater understanding of where and how students are falling through the cracks. If the United Kingdom, who accepts a greater number of international students than Australia, can justify granting access to the National Health Service, then the case can be made for international students here to access Medicare.

> *Recommendation: That a feasibility study into granting international students access to Medicare be commissioned.*

Mental health care

Mental health is perhaps the most concerning area of international student wellbeing. Improving the mental health services available to Australian citizens has been a focus area for governments at the state and federal level, and for international students the problems are often confounded. Research has indicated that students, whether local or international, are highly susceptible to emotional stress. An Australian study conducted by Schweitzer (1996, p. 73) found that 45 per cent of students surveyed reported an experience of emotional stress during their period of study. A similar Canadian study looking at undergraduates found that not only did high levels of emotional distress exist in their sample, but also that the levels were 'significantly higher than among the general population' (Adlaf, Gliksman et al. 2001, p. 71).

The traditional pressures of studying may relate to concerns about academic performance or external issues such as managing study alongside work and social commitments. These stresses are exacerbated in international students due to their lack of established support networks in the host country. The fact that academic performance can be tied to an international student's visa status is another important consideration. Khawaja and Dempsey (2008, p. 42) attest that ''international students' lower levels of social support, higher mismatched expectations and greater use of dysfunctional coping strategies places them in a more vulnerable situation than domestic students'. This conclusion is backed up by the findings of a German study by Krämer et al. (2004, p. 131):

> *The findings from our study showed no clear differences in indicators for physical health between international and German students. However, in the area of*

mental health, international students had several disadvantages compared with German students, such as higher psychological stress, fewer available personal resources, and lower health awareness.

Many universities offer counselling services which are available to enrolled international students. Once again however, smaller educational providers are much less likely to have these services. There are also a number of cultural factors which are arguably more difficult to address when dealing with mental health considerations. While signs of mental distress are often identified in individuals by family and friends, even when the person has a large support network they often go undetected. International students rarely have the support of family in their host country and their friends may be from different cultures, which can make the identification of worrying behaviour more problematic (Bradley 2000, p. 422).

If a mental health concern is identified, problems can still exist in ensuring the international student gains access to appropriate treatment or care. While counselling services are widely accepted and utilised in Australia, in the international student's home country this may not be the case. In a study exploring the response to mental concerns in international students, Bradley (2000, p. 424) found that 'students who were least likely to find the service acceptable were those who came from cultures where counselling was little utilised. Perceived cultural differences between counsellors and non-western students were the reasons given for the low take-up of service'. Sawir et al. (2009, p. 157) attest that, 'studies find…student counseling services are underutilized…because of insufficient funding to support a counseling service adequate to international students' needs, or unawareness of its existence, or concerns about trustfulness, problems of shame and loss of face, and other cultural issues'.

While a university counselling service may be sufficient to treat some mental health issues, there is concerning growth in the prevalence of serious mental health problems in international students. Marginson (2010, p. 291) describes how the tradition of ad hoc problem-solving in these cases is fast becoming insufficient:

> *One staff member, who had worked in an international office for a decade, told the research team that every year a small proportion of international students constituted serious mental health cases. When there were only a few cases each year they were referred to state mental health services without charge. This was a needs-based provision outside commercial frameworks and the abbreviated student entitlements of the National Code. But growth meant that the university now had 100 or more such cases each year and the state mental health authority could no longer carry the cost.*

The increasing prevalence of mental health concerns amongst international students has created the need for more effective and comprehensive treatment options for this community. There also needs to be better dissemination of care information and the tailoring of services to be cognisant of cultural sensitivities. This is of particular concern in smaller educational providers who will almost certainly be relying on the use of external services.

As we are discussing specialised healthcare delivery, state governments are in the best position to establish new services to meet these needs. While university counselling can fill some of the demand, for smaller educational providers and serious cases there needs

to be care services capable of dealing with students from disparate cultural backgrounds. These services could be incorporated into existing mental health care facilities, however the anaemic state of care in many parts of Australia suggest that few would have the capacity to deliver additional tailored service.

In the interim there needs to be an increased focus on educating international students on both the dangers of poor mental health and the services which are currently available. There must also be an effort in this education to remove the stigma of mental health care which exists amongst students from certain cultures. Sadly, state government investment into this area is unlikely in the short term so it is the duty of institutions to go beyond the National Code and take an increased role in monitoring student mental health concerns. The task of information dissemination should be shared amongst institutions as well as international student groups. The most effective way to remove reservations about counselling services will be to hear their benefits from other international students.

Finally, in this area there needs to be a larger, Australian-based study into the mental health of international students. Although there is general consensus that it is a problem, the full extent of the problem is not known. Until there is more concrete evidence of the scale of mental illness amongst international students, funding is extremely unlikely. Any such research should address the healthcare needs of international students which differ from local students and the general community.

Recommendation: That further research be conducted into the mental health of international students in Australia.

Recommendation: That there be a greater focus from institutions and student groups to provide information about the concerns of poor mental health, as well as the services which are currently available.

Legal concerns

Legal rights regimes

Due to the deferral of responsibilities from the Commonwealth to the educational provider, international students often find themselves in legal limbo when problems occur during their time in Australia. Those who stay in the country for an extended period of time engage in almost all aspects of Australian society and the potential for legal disputes are exacerbated by their non-citizen status (Marginson, Nyland et al. 2010, p. 15). Students may encounter legal issues with employers, landlords, health care providers, their education provider, other students, or the Department of Immigration and Citizenship (DIAC). The legal rights ascribed to international students are highly dependent on the dichotomy introduced at the beginning of the paper - whether we view international students from a consumer perspective or a human rights perspective. In a paper assessing the regime of pastoral care for international students in New Zealand, Sawir et al. (2009) suggest there are three approaches which nations can take.

The first approach is described as the 'pastoral tradition' whereby students are deemed less than able to make decisions regarding welfare independently and the educational provider must provide comprehensive support for all needs (Sawir, Marginson et al.

2009, p. 46). This regime is most common in primary and secondary schooling, where a minority of international students study in Australia. The second regime is defined as 'consumer protection' where students are granted full decision-making authority: 'Consumer protection covers matters such as the protection of student payments, regulation of price increases, and specification of the minimum information that an institution must provide before contracts are signed. The student is not seen as entitled to comprehensive welfare, nor alternatively as the bearer of a full range of economic, industrial, social, civic, political and educational rights' (Sawir, Marginson et al. 2009, p. 46). The third regime they title 'quasi-citizenship' and this is the regime which aligns most closely with a human rights perspective. Quasi-citizenship imbues the international student with all of the rights and protections of a domestic student bar exceptional rights of citizenry; such as the right to vote.

This would be the approach adopted to best maintain fidelity to the Universal Declaration of Human Rights and for Australia to uphold the commitment articulated in its own *National Action Plan* for Human Rights: 'Human rights policy in Australia is based on the principal that human rights are inherent, inalienable, indivisible and universal' (Attorney-General's Department 2005, p. 98). This should be the goal for all nations, however currently the only international students who are close to receiving the benefits of quasi-citizenship are European citizens who are studying within a country of the European Union (Sawir, Marginson et al. 2009, p. 46).

Australia's allocation of rights falls within the 'consumer protection' regime which is regulated by the Education Services for Overseas Students Act 2000. This Act is designed to protect the commercial interests of the international student, rather than to ensure their overall wellbeing. Speaking jointly of the Australian and New Zealand regime Marginson (2010, p. 71) judges that 'in both nations there is sparse acknowledgement of welfare rights, little notion of educational rights and no mention of industrial rights despite documented cases of exploitation of international students in the workplace'. Issues of employment and accommodation will be discussed later in the paper, however first it is worth looking at how immigration law affects international students.

Immigration Law

The perception of Australian immigration law internationally is that it has the potential to be rigid and unforgiving. An article in the Singaporean *Strait Times* reports that, 'Under the current system, students have their visas automatically cancelled if they are reported for poor attendance, fail classes, or take paid work for more hours than they are allowed' (Pearlman 2012). While this legislation has been recently relaxed, the reputation of inflexibility remains.

The 2011 review of the student visa program produced by Mr. Knight demonstrates an impressive level of understanding and detail of the major structural difficulties of the regime. It includes 41 recommendations for reform which the Commonwealth has said it 'supports in principal, however some recommendations will be modified in places to enhance the performance of the Australian education sector and to better safeguard the integrity of the visa system' (Department of Immigration and Citizenship 2012).

In its stage one response to the review the Commonwealth:
- Decreased the financial requirements for Assessment Level 3 and Assessment Level 4 (higher risk) student visa applicants;
- Introduced a Genuine Temporary Entrant requirement to provide better assessment of whether an applicant is legitimately coming to Australia to study;
- Removed the English language test requirement for Assessment Level 4 ELICOS applicants;
- Increased the visa period for postgraduate research students by six months to allow more time for thesis marking;
- Allowed pre-paid fees for homestay arrangements through education providers to be included in the financial assessment visa requirement;
- Stopped the Pre-Visa Assessment policy which required a letter from DIAC before Assessment Level 3 and Assessment Level 4 applicants could be granted a confirmation of enrolment from their provider (Department of Immigration and Citizenship 2012).

In the stage two response the Commonwealth:
- Ensured student visa applicants who lodge their applications with a Confirmation of Enrolment for a bachelor, masters or doctoral degree at an Australian university will all be assessed at Level 1 (low migration risk);
- Changed the work conditions of the student visa from 20 hours per week to 40 hours per fortnight;
- Eliminated the hourly work restrictions for higher degree by research students;
- Increased the maximum period of language study for Assessment Level 3 ELICOS students to 50 weeks;
- Allowed student guardian visa holders to undertake unlimited ELICOS study on a part-time basis;
- Removed the Assessment Level 4 schools sector English language requirement;
- Allowed flexibility for departmental case officers to grant student visas more than four months before the start of courses in some circumstances;
- Removed the automatic cancellation of student visas for unsatisfactory attendance, unsatisfactory progress and working in excess of allowed hours. These breaches will now be assessed by departmental case officers (reform proposed but yet to pass Parliament) (Department of Immigration and Citizenship 2012).

Some of these reforms, especially the amendments to working conditions and abolition of the mandatory visa revocation mechanism are excellent changes which will directly improve the welfare of students studying in Australia. The Commonwealth has shown strong commitment to the Knight Review (Hon Michael Knight AO's review of the Student Visa Program) and it is important that they continue to implement the suggested reforms. They have also recognised that the rapid increase in international students has caused a legislative lag in the system: 'it has not evolved to reflect the rapidly changing size and complexity of Australia's international education market' (Department of Immigration and Citizenship 2012).

Recommendation: That the Commonwealth Government institutes all of the Knight Review reforms, which have been accepted and supported in principle.

As will be explained in the safety section of this report there is a somewhat increased risk of physical violence amongst the international student community. An area of real concern, and one which requires change to immigration legislation is that of secondary visa applicants who are the victims of domestic violence. Under the current system spouses of people who are admitted to Australia on a student visa may apply to join them as a secondary applicant. Their status as a visitor of the country is dependent on the primary visa holder satisfying the conditions of their visa. Earlier this year *The Age* reported a case of a Bangladeshi woman who was physically abused by her husband. Her decision to call the police and have him arrested has jeopardised her ability to stay in Australia, and she fears retribution from her ex-husband's family if she is forced to return to Bangladesh (Griffin 2012).

If the woman's husband were a permanent resident, different rules would apply. Under the Migration Act the spouses of permanent residents can apply to stay in Australia if they leave their partners for any reason, including domestic violence. If the primary visa holder is here as a student however, this protection does not exist. The woman in this case is being assisted pro bono by a lawyer who is attempting to obtain her refugee status, 'but asking for asylum on family grounds is extremely difficult under refugee law says Melinda Jackson, a lawyer with Spectrum Immigration Services, who has worked with many temporary migrants' (Griffin 2012). The Bangladeshi woman is not entitled to work in Australia, nor given access to Medicare. Her medical assessment, a requisite of DIAC, was carried out free of charge by an obliging doctor.

While this is a singular case, there can be no estimate of the number of people too scared to report instances of domestic violence for risk of this situation. Where the provision exists under the Migration Act, the number of women applying for permanent residency on the basis of family violence rose by 45 per cent (705 cases to 1023 cases) between 2009-10 and 2010-11 (Griffin 2012). Domestic violence refuges are not currently funded to deal with these cases and it places the victim in an extraordinarily vulnerable position. The Australian Law Reform Commission has made a recommendation that the 'family violence exception' also be available to secondary visa applicants, however this has yet to be adopted (Australian Law Reform Commission 2012).

> *Recommendation: That the Department of Immigration and Citizenship adopts the Australian Law Reform Commission recommendation to allow secondary applicants access to the 'family violence exception'.*

Legal support services

While the reforms to immigration undoubtedly assist international students, commentators such as Joanna Mather (2012) have suggested the primary motivation is likely to be economic: 'The aim is to reverse the international student downturn and make Australian visa processing times more competitive with the United Kingdom and the United States'. This argument supports the student-as-consumer thesis.

Once students are able to negotiate immigration and gain entry to Australia, their access to legal information and support is extremely limited. While it could be argued that local students also lack access to affordable legal advice, the non-citizen status of

international students places them at increased legal risk. One of the only Australian services setup specifically to provide free legal assistance to students is ISLAC, part of the Western Suburbs Legal Service in Melbourne. ISLAC is a small service staffed by volunteer lawyers who have fluency in at least two languages. It has been identified by the International Student Roundtable as a model service for other states to follow (Australian Education International 2011, p. 4). ISLAC was established with state government funding which is due to expire in June 2012. At the time of writing the organisation is appealing for the continuation of funding, which if not forthcoming will force closure.

According to coordinator Emel Ramadan, ISLAC requires $326,000 to continue operation. An article in the *Maribyrnong Weekly* recognised this as 'a fraction of the amount that international students inject into Victoria's economy' (Dmytryshchak 2012). Disputes with educational providers and immigration are recognised as their major areas of work, however they have also addressed problems of 'employment…tenancy disputes, family violence, debt, road crashes, injuries and family law complaints' (Dmytryshchak 2012). Due to operational restraints the service has been forced to turn clients away. On its current performance there could be a strong case made for its expansion rather than defunding. The ISLAC office in Newport has been especially successful due to its local community approach, the majority of clients coming from the western suburbs. Adam Graycar (2010, p. 11) makes a case for the effectiveness of not-for-profit organisations in taking on service roles writing that 'because they are mission driven, these not for profit organisations often have a comparative advantage in dealing with these situations. They are often dependent to some extent on direct or indirect government support and this support may be an effective way for governments to assist.'

Recommendation: That state governments establish new, or fund existing services to provide legal support for international students.

Societal concerns

Safety

The safety of international students in Australia has been a high priority since the well publicised attacks on Indian students in 2009. At the time of writing this issue has returned to the media following the assault and robbery of two Chinese students on a train in Sydney (Cai 2012).

Obviously there is the potential for all members of society to be the victims of violence and other criminal activity, however in some instances international students may be at greater risk. The *International Students Strategy for Australia 2010-2014* has recognised these concerns and states students 'may be at greater risk than most Australians if they are unfamiliar with local danger spots and ways to minimise the risk of being assaulted; if they have to travel alone late at night because of work and study commitments; and if they need to travel through high-risk areas' (Council of Australian Governments 2012, p. 10).

Largely as a response to the Indian student attacks in Victoria, the Commonwealth commissioned a study into violence against international students to be completed by the Australian Institute of Criminology (AIC) in conjunction with the Department of

Foreign Affairs and Trade (DFAT) and Department of Immigration and Citizenship. The research produced some interesting results, overall concluding that 'international students are less likely or as likely to be victims of physical assault and other theft' when compared to other citizens (Larsen 2011, p. xii). The report did however identify heightened risk for certain student groups, such as Indian students. Despite the general findings it attests that, 'international students in the main are a particularly vulnerable group due to a range of factors including demographic characteristics and a lack of economic security together with relatively limited options of employment, housing and transport' (Larsen 2011, p. xvi). The next section of the report explores these contributory factors in greater depth. The AIC report is unequivocal in declaring that its findings cannot be interpreted as racism against international students, only that lifestyle factors expose this population to increased risk (Larsen 2011, p. xvi). As a counterpoint, research from Professor Kevin Dunn (2011, p. 14) at the University of Western Sydney concluded that in the attacks on Indian students, racism was a common motivation.

Marginson et al. (2010, p. 239) argue that prior to 2008 Australian governments tended to suppress reports of crime directed at international students as they risked tarnishing our reputation as a safe location to be educated. Australia has enjoyed an advantage in safety reputation when compared to competitors such as the United States. As the authors quite rightly contend, these issues are no longer and can no longer be ignored. In fact, the best way to ensure that international students are offered a safe environment is to have instances of crime reported and for policing authorities to be able to coordinate fact-based approaches to prevention. This is beyond the scope of the National Code, however institutions and government can assist with providing information regarding further safety advice. This is a focus of the Council of Australian Governments strategy and institutions should (and for the most part do) make student safety a priority.

> *Recommendation: That education providers utilise government resources and ensure student safety is a priority of their induction processes.*

Barriers to engagement

A proactive way to increase safety and prevent the need for counseling and mental health services is to ensure that Australian society is inclusive and supportive of international students. An Australian study examining international student loneliness identified that around two thirds of international students experience loneliness during their time in Australia and this can have highly detrimental effects on their health and their overall experience (Sawir, Marginson et al. 2008, p. 148).

Adam Graycar (2010) worked collaboratively with the Academy of Social Sciences in Australia, Universities Australia and the Australian Human Rights Commission to produce a 2010 report entitled *Racism and the Tertiary Student Experience in Australia.* The report is a summary of a full day workshop on the topic and presents a broad, whole of society approach. The report identifies that there is undoubtedly racism directed at international students, but also that there is strong public support for action against racism (Graycar 2010, p. 8).

Racism exacerbates the difficulties many international students have engaging with local culture while in Australia. Sawir et al. (2008, p. 170) argue that it is common for

international students to restrict their social networks to people from their home culture, creating 'ghettos that block the potential for a richer educational, social and cultural experience'. Their conclusions do not place blame on the international students or Australian society, but acknowledge there needs to be greater focus on educational engagement between local and international students (Sawir, Marginson et al. 2008, p. 173). The International Student Roundtable promotes the nationwide rollout of 'best practice social inclusion programs' including the City of Melbourne Lord Mayor's Student Welcome, Australian Federation of International Students (AFIS) Information Day and the University of Newcastle 'Cultural Awakening' week (Australian Education International 2011, p. 3). Graycar (2010, p. 11) recognises the mutual value of international students engaging with local community organisations. He argues that the will exists, but knowledge is often lacking: 'Many international students are unaware of support services and community groups that operate in their locality or sphere of interest'. Utilising the knowledge of international students has the potential to greatly improve the way local communities welcome and engage people from different cultures.

> *Recommendation: That education providers offer international students information about community groups and projects which may interest them.*

Cost of living concerns

Work/Financial constraints

Many international students will enter the workforce during their time in Australia, exercising their ability to do so under the student visa regime. International students are allowed to work up to 40 hours per fortnight during the semester and unlimited hours during semester breaks (Department of Immigration and Citizenship 2012). Due to recent legislative change higher degree by research students are now able to work unlimited hours once their study has commenced (Department of Immigration and Citizenship 2012). The Council of Australian Governments is for the most part correct in claiming that 'the work rights provided to international students in Australia are comparable to, or more generous than, work rights provided to international students in other major countries providing international education' (Council of Australian Governments 2012, p. 6).

Despite this, there have been a number of problems identified with international students gaining access to employment which is safe and fair. Research by Danny Ong and Gaby Ramia (2009, p. 182) suggests that while there has been an increased focus on the 'student experience' in recent years this has mostly targeted academic elements, ignoring what they term the international student 'study-work-life' balance. Students are required to work more hours to support their study than ever before. The Group of Eight, a committee of Australia's foremost universities indicate that students now work three times the hours of their counterparts in 1984 (Ong and Ramia 2009, p. 186). International students generally have no entitlement to financial support while studying in Australia, which can exacerbate their need to work more than what is legally allowable. Ong and Ramia (2009, p. 186) contend that this has left international students vulnerable to exploitation, with some employers offering 'less than legally mandated minimum wages and other employment standards'. If the international student is working outside of their visa conditions they will be much less likely to report unfair work practice.

Unfortunately, the phenomenon of international student work in Australia is significantly under-researched and hence conclusions tend to be more anecdotal than evidence based (Nyland, Forbes-Mewett et al. 2009, p. 3). Accurate data can also be elusive as international students who are working more hours than their visa allowance will be reluctant to admit this to researchers (Nyland, Forbes-Mewett et al. 2009, p. 5-6). What is clear is that the rise of international student enrolments has created a temporary workforce which has the potential to be exploited. Interview evidence indicates that workers are often paid below the minimum wage and have limited knowledge of Australian labour laws (Nyland, Forbes-Mewett et al. 2009, p. 7-8). As is the case with student safety, there may be reluctance from institutions to fully examine this area due to possible negative ramifications to Australia's reputation (Marginson, Nyland et al. 2010, p. 120). Until this research is conducted, it will be impossible to ascertain the nature of the problem, or to suggest remedies.

> *Recommendation: That further research be conducted into the workplace participation of international students studying in Australia.*

Accommodation:

In Australia's largest cities, where the majority of international students are situated, there are recognised issues in securing safe and affordable accommodation. Experts have predicted that the shortfall will only worsen as populations grow in our largest urban areas (Janda 2012). Naturally, this is also an area of concern for domestic students, however international students have a greater range of difficulties. In most cases international students do not have family to live with, whereas many domestic students choose to stay at home while studying. International students are required to settle quickly after receiving their student visas and many source their accommodation while still in their home country. This is usually done without a sophisticated knowledge of local areas, their relative safety, or their proximity to services (Obeng-Odoom 2012, p. 205-207). As international students are not entitled to transport concessions in Victoria or New South Wales, they may be more restricted in the areas of accommodation they can choose from (Hare 2012). Domestic students also have access to government support programs and can apply for rent assistance payments to subsidise their expenses.

Both the International Student Roundtable and the Overseas Student Taskforce have identified accommodation at a major cost of living concern for international students (Australian Education International 2011) (Overseas Student Education Experience Taskforce Victoria 2008). Obeng-Odoom (2012, p. 201) writes that 'the quality of the physical environment and the social relationships developed in student houses have a significant impact on how satisfied students are with their university education'. This places the issue at the heart of both increasing student welfare and growing our international education industry.

Aside from cost, international students who live in official education provider accommodation (housing that is administered by the provider or an affiliate) generally encounter few problems. Toby Palridge's (2010, p. 362-363) research at Monash University found that students living in this kind of accommodation feel secure and have advantages in forming social networks. This analysis is supported by Obeng-Odoom (2012, p. 208) who argues that 'problems with university accommodation are few, minor, and experienced similarly by local and international students'. University accommodation

is limited, however, and in general more expensive than sourcing private housing (Obeng-Odoom 2012, p. 207). In dealing with the private rental market there is evidence of students being unfairly treated:

> *Some students are wrongfully ejected, forced to pay for costs such as repairs, for which they are not legally responsible, or asked to fulfil onerous responsibilities in their tenancy agreements. Some suffer from invasion of privacy and the rent of others is arbitrarily increased, while for others, no receipt is ever given to them for rental payment. Most international students are not given tenancy contracts, some are victims of internet scams, while others do not get their bond refunded* (Obeng-Odoom 2012, p. 209).

International students' lack of access to affordable legal support makes resolving these disputes more difficult. Their transitive behaviour and lack of local knowledge can make them targets for unfair treatment. The financial instability of many international students will dictate the type of accommodation they choose. Graycar (2010, p. 11) contends that 'poorer international students live in lower socio-economic status suburbs and often pay a lot for crowded and poor quality housing'. Financial imperatives can force international students into more dangerous areas, lessening their physical security.

Solving the housing crises in our largest cities is obviously a task too broad for the National Code or educational providers. While there are calls for more provider-administered accommodation, this does not tackle the root of the problem, which is the financial insecurity of international students. Obeng-Odoom (2012, p. 212) argues that 'underpinning the housing question is the economic question; a more desirable and important aim is to improve the economic conditions of international students'. Some larger providers do have loan schemes to provide some short-term financial assistance to international students seeking accommodation. They do not however, have near the level of support available to domestic students. With the enormous revenue accrued by governments and providers through international education, more should be done to ensure these students are able to access safe, high quality housing.

> *Recommendation: That governments work with education providers to develop financial support schemes to assist international students who are in financial difficulty to secure quality accommodation.*

Conclusions

This report has argued that Australia's current international education regime is inadequate in protecting the welfare of students. This has occurred for two primary reasons. The first is the rapid growth of international student enrolments in the previous decade which has created a lag in legislative reform and the development of services to properly support international students. The second is the overriding paradigm of 'student-as-consumer' which has dominated our thinking in regards to international students.

While broad reform will require a whole of society approach, this report suggests some recommendations for improving the welfare of international students in the short to mid-term. The report also recognises that significant elements of international education remain under-researched and for effective reform to take place further research is

required to ascertain the specific nature of problems.

The good news is that despite these inadequacies Australia is still a popular place to study and generally enjoys a positive reputation as a location to be educated. For the nation to continue to grow the industry and ensure that we are committed to promoting universal human rights, significant reform of our international education sector is required. If Australia is able to implement these reforms the economic and cultural benefits to the nation will be worthwhile and substantial.

Recommendations

1) That further research be conducted into the VET, ELICOS and school sectors of international education.

2) That a feasibility study into granting international students access to Medicare be commissioned.

3) That further research be conducted into the mental health of international students in Australia.

4) That there be a greater focus from institutions and student groups to provide information about the concerns of poor mental health, as well as the services which are currently available.

5) That the Commonwealth Government institutes all of the Knight Review reforms, which have been accepted and supported in principle.

6) That the Department of Immigration and Citizenship adopts the Australian Law Reform Commission recommendation to allow secondary applicants access to the 'family violence exception'.

7) That state governments establish new, or fund existing services to provide legal support for international students.

8) That education providers utilise government resources and ensure student safety is a priority of their induction processes.

9) That education providers offer international students information about community groups and projects which may interest them.

10) That further research be conducted into the workplace participation of international students studying in Australia.

11) That governments work with education providers to develop financial support schemes to assist international students who are in financial difficulty to secure quality accommodation.

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