

UNITE Submission to the  
Senate Education, Employment and Workplace  
Relations Committee:

Inquiry into the Welfare of International Students

August 2009

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**UNITE Secretary**



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## **Introduction/Declaration of interest**

**“We do not just work in your 7-Eleven’s, we do not just work in your petrol stations, we do not just drive your cabs – we drive your economy” – from a protest speech at the Melbourne taxi driver’s strike, April 2008**

The economic contribution of international students, noted here by one international student taxi driver, is well documented. What is noteworthy about this statement is how succinctly it encapsulates the international student labour market and student’s growing consciousness of the contribution their exploitation makes to Australia’s export earnings.

## **Introduction to UNITE:**

UNITE is a union for fast food and retail workers in Victoria. Our involvement and interest in this submission is in particular in relation to terms of reference:

(iv) student visa requirements,

(v) adequate international student supports and advocacy,

(vi) employment rights and protections from exploitation, and the working conditions of international students.

UNITE is an active union with a particular focus on young people and those in casual employment. We became involved in advocacy around the workplace conditions of international students in 2008, when we were approached by a group of international students working in 7-Eleven the Melbourne CBD. Since our introduction to the particular issues faced by international students in the workplace, we have become increasingly alarmed at the scale and degree of serious workplace and occupational health and safety breaches in the labour markets in which international students are predominantly found, and subsequently, government inaction in this area.

Our submission will tell the stories of UNITE members in the workplace. It will also focus on what we see as the legislative and regulatory barriers that assist to cover up this exploitation. It includes reflections on our work with the Fair Work Ombudsman, with whom we have several active cases.

UNITE is one of the few trade unions actively involved in advocacy for international students. We have sought to make the Fair Work Ombudsman aware of some of these cases. Many of the people we represent have been forced by economic circumstance and blatant breaches of workplace law to work over their 20 hour work restriction.

**(iv) Student visa requirements:**

## **The 20 hour work restriction**

The reality that international students need to work to meet their other visa obligations, namely their financial obligations to their education provider, was recognised by the Australian government, when in April 2008, it amended the migration regulations to include work rights on all initial student visa grants.<sup>1</sup>

UNITE argues that the 20 hour work restriction, coupled with the lack of avenues for international students to come forward to complain about breaches of workplace rights, has created a growing black market in which gross underpayment of wages, fraud by employers, bullying and intimidation of international student workers thrives.

The migration regulations Regulation 2.43, (Grounds for cancellation of visa (Act, s116)) indicates that the Minister can cancel a student visa for breaches of conditions 8105 and 8202. 8202, the condition relating to attendance and satisfactory academic performance, mandates cancellation for breaches, except in exceptional circumstances.

This means that, unlike with a breach of 8105, the grounds for an appeal to the Minister for cancellation of the visa are not simply administrative. Even in the case where a breach is proven, a student can demonstrate exceptional circumstances that caused the breach.

A student in breach of condition 8105 has no such option, even in the case where they might have evidence of workplace exploitation or illegal behaviour by an employer. This contrasts sharply with a bridging visa holder without work rights in the first place – a ludicrous situation currently exists whereby the Migration Review Tribunal is able to exercise its discretion in cases where the visa holder, for example, was working without any work rights at all, whereas a student with those rights who has fallen foul of the regulations for whatever reason, can not benefit from the exercise of the tribunal's discretion.

International students in breach of the 20 hour work restriction are in a special category that they share only with those accused of terrorist offences, or those accused of trafficking in weapons of mass destruction!<sup>2</sup> Mandatory cancellation for breaches of condition 8202 was reviewed and amended in 2005. There is no explanation in either departmental or ministerial statements at the time to explain why condition 8105 was not

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<sup>1</sup>Department of Immigration and Citizenship, "Legislation Change – 8 October 2005 – Notice of Legislation change – Legislation and regulations - Amendments to Mandatory Student Visa Cancellation - Exceptional Circumstances" available at <http://www.immi.gov.au/legislation/amendments/2005/051008/lc08102005-01.htm> - last accessed 14th August 2009

<sup>2</sup> See section 116 of Migration Act 1958 Paragraphs 2.43 (1) (a) and (b) and (2) (b)

included in this change.<sup>3</sup>

The mandatory cancellation of an international student's visa for breaches of restriction 8105 contrasts sharply with the department's attitude towards breaches by employers:

From the DIAC website:<sup>4</sup>

Warnings for first-time offenders:

Most first-time offenders will be given a warning notice rather than being referred for prosecution. The exceptions would be where:

- an employer actually knew the worker was working illegally; or
- the illegal worker is being exploited; or
- the employer or labour supplier is involved in an organised employment racket.<sup>3</sup>

Not only do many employers receive a first-time warning, but there is no information provided as to how the department determines that an illegal worker has been exploited. If that illegal worker is an international student, they would not be in a position to remain in the country to facilitate an appropriate investigation because of the rigidity of the current migration regulations.

There appears to be no mechanism for ensuring that employer breaches in relation to exploitation of international student workers could be thoroughly investigated if a breach of condition 8105 is evident. Without some kind of amnesty provided for students who provide information of workplace exploitation, or who are discovered working for an employer breaching the law by underpaying wages or for breaches of Occupational Health and Safety law, there is little hope that illegal activity by employers will actually be uncovered.

The lack of discretion provided to the MRT to take account of the circumstances

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<sup>3</sup> See "EXPLANATORY STATEMENT: Select Legislative Instrument 2005 No. 221 Issued by the Minister for Immigration and Multicultural and Indigenous Affairs" available at

[http://www.austlii.edu.au/au/legis/cth/num\\_reg\\_es/mar20058n221o2005417.txt/cgi-bin/download.cgi/download/au/legis/cth/num\\_reg\\_es/mar20058n221o2005417.txt](http://www.austlii.edu.au/au/legis/cth/num_reg_es/mar20058n221o2005417.txt/cgi-bin/download.cgi/download/au/legis/cth/num_reg_es/mar20058n221o2005417.txt)

last accessed 14<sup>th</sup> August 2009

and

Department of Immigration and Citizenship, "Legislation Change – 8 October 2005 – Notice of Legislation change – Legislation and regulations - Amendments to Mandatory Student Visa Cancellation - Exceptional Circumstances" available at

<http://www.immi.gov.au/legislation/amendments/2005/051008/lc08102005-01.htm> - last accessed 14th August 2009

<sup>4</sup> Department of Immigration and Citizenship, "Employer obligations – Understanding your obligations" available at <http://www.immi.gov.au/managing-australias-borders/compliance/employer-obligations/your-obligation.htm> - last accessed 14th August 2009

surrounding a breach of condition 8105 undermines DIAC's stated commitment to stamping out illegal activity by employers.

UNITE argues that it is the inflexibility of the Migration regulations, and the 20 hour work restriction, that is preventing students from coming forward about egregious breaches of workplace and OH&S laws. It also is not operating in any way to protect local workers access to labour markets – in fact the slave-like conditions many international students are forced to work in make them far more attractive to unscrupulous employers than workers who might demand award rates of pay. The inflexibility of the regulations makes their use as a threat by unscrupulous employers extremely powerful.

This visa condition, and its impact on the local labour market, was last subject to serious government scrutiny by the Industry Commission, in its 1991 report: Exports of Education Services<sup>1</sup>. The Commission noted at the time:

Work rights may also affect the Australian labour market. Students working create an increase in the pool of part-time labour. The impact of this depends in part upon whether Australian workers are displaced from employment, any effects on wages for those not displaced, and whether foreigners undertake jobs which Australians will not undertake. 6.1 pg 97

UNITE argues that the restriction on international student work rights is having a serious impact on the local labour market and is creating what Karl Konrad, former police corruption whistleblower and now migration agent, has termed “economic slaves”.<sup>5</sup>

International students and their spouses, who are also subject to the 20 hour work restriction, now number close to 400,000, and in certain industries, such as night-time taxi work and convenience stores, they make up a substantial proportion of workers in these particular industries.<sup>6</sup> There is anecdotal evidence that international students are becoming a substantial portion of the workforce in the sex industry, a concern noted as early as 2003 by the Tenants Union of Victoria (TUV)<sup>7</sup>. The Tenants Union of Victoria released a report in 2004 suggesting that unscrupulous agents were organising student accommodation in conjunction with work, with students who could not quite afford the

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<sup>5</sup>Nick O'Malley, Heath Gilmore and Erik Jensen, “Foreign students exploited as slaves”, *The Sydney Morning Herald*, July 15<sup>th</sup> 2009

<sup>5</sup><http://www.smh.com.au/national/foreign-students-exploited-as-slaves-20090714-dk52.html>

<sup>6</sup> Lawrence Mooney, “Melbourne's taxi drivers are a breath of fresh air”, *The Age* 24<sup>th</sup> February 2007

<http://www.theage.com.au/news/national/melbournes-taxi-drivers-are-a-breath-of-fresh-air/2007/02/23/1171734021985.html?page=fullpage#contentSwap1>

last access 14<sup>th</sup> August 2009

<sup>7</sup>The author's personal communications with members of the AFP anti-trafficking unit, Melbourne (2008), and members of Scarlet Alliance (2009)

full payment for 12 months accommodation finding themselves working in either the sex or cleaning industries to pay off accrued housing debts to these same agents.<sup>8</sup>

The effect of the 20 hour visa restriction is to automatically lock international students out of the kind of white collar part-time work that many local students can access – for example, 3 day a week clerical work. The standard 8-hour day puts international students 4 hours outside of this labour market. The 20 hour work restriction makes international students unattractive to some employers. But to unscrupulous employers, it is a boon, allowing a thriving market in unpaid trial work, underpayment of wages, and the constant threat of a report to the Department of Immigration to keep international students in their perceived place.

As noted by a Melbourne journalist (Skelton 2008), many international students perceive their employment options as restricted to the types of employment “Australians will not do”.<sup>9</sup>

Cause and effect in relation to workplace exploitation and the 20 hour work restriction is somewhat complicated to unpack. Nyland, Smith (et al) have identified the myriad of factors that count against international students in the labour market, but they concur that the labour market experience of international students is characterized by low-status, low-paid casual work.<sup>10</sup>

Below a 7-Eleven workers identifies the Catch-22 situation of international students in the workplace: the 20 hour work restriction makes it difficult to apply for many jobs, as employers prefer employees to whom they can dictate work hours. For this reason many international students end up in low-paid employment – making the incentives for breaching their 20 hour work restriction all the greater. Mohamed, a 26-year old UNITE member from India, studying on a 573 higher education visa, effectively sums up this dilemma:

**“Also I would assume for the international students who are desperate to work and earn would do any thing that the owner or the manager asked them to do. Even though it was illegal to work more hours than allowed 20 hours a week, we were forced to work more hours as we were underpaid to compensate the huge fees and the living expenses compared to any other local students who are getting all other government benefits like HELP and travel concession.”<sup>11</sup>**

Nyland, Smith (et al) report that even international students who are aware that they are

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<sup>8</sup>Colleen Power, Tania McKenna, “International Student Housing: more than just a market”, Tenants Union of Victoria, pg 5 2004

<sup>9</sup>Skelton (2008) <http://archive.blogsome.com/2008/04/30/melbourne-taxi-strike/>

<sup>10</sup>Nyland, Smith (et al), “International Students: A segregated and vulnerable workforce”, Working Paper 24/07, Monash University, Department of Management, September 2007

<sup>11</sup> Author’s interview with Mohamed, 14<sup>th</sup> August 2009

being underpaid in their current employment identify their desired rate of remuneration as being a figure that is in fact well-below the legal minimum.<sup>12</sup>

The 20 hour work restriction not only makes students vulnerable to workplace exploitation - it is also ineffective as a measure of commitment to studies. This was noted by Coffey MPW Pty Ltd, in their submission to the Commission in 1991:

20 hours per week is obviously unenforceable and ridiculous in terms of a stated regulation. ...It does not seem to be relevant in academic terms to restrict the number of hours of work; rather the number of hours of study should be the primary issue. If concern is to limit the potential impact of working students on working Australians, then the 20 hour limit has also failed because, coupled with taxation requirements to conform to tax number legislation, this has created an active black market in labour (Submission No. 63, p. 7). Pg 102

The 20 hour work restriction was introduced in a period before the higher education sector became almost totally reliant on the international student dollar to survive, and well before student numbers reached close to half a million.<sup>13</sup> That it has remained unchanged for so long, while the international student sector, and indeed the local labour market, have changed so much, seems reason enough to re-examine its effectiveness. The number of international students in the country at the time of the Industry Commission's report was 65,000, with 44,000 of these being full-fee paying overseas students.<sup>14</sup> In addition, the Commission report tracks the recruitment shift from the socio-economically privileged markets of countries like Malaysia to the People's Republic of China from 1986 - 1990. Recruitment from India did not even figure as a separate category in Commission figures at this time. Since this report the growth in the sector has been in the comparatively less privileged markets of India and China. Education agents are now trawling the villages of Punjab and Andhra Pradesh in order to fill the quotas of international students in Australian universities and private colleges.<sup>15</sup>

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<sup>12</sup> Nyland, Smith (et al), "International Students: A segregated and vulnerable workforce", Working Paper 24/07, Monash University, Department of Management, September 2007

<sup>13</sup> The 20 hour work restriction has now been in place for almost 20 years

<sup>14</sup> Industry Commission, "Exports of Education Services", Report no. 12, Australian Government Publishing Service, Canberra, 14<sup>th</sup> August, 1991, pg 38

<sup>15</sup> Michiel Baas "The language of migration: the education industry versus the migration industry" *People and Place*, Volume 15, Issue 2, 2007, pg 57



**(v) adequate international student supports and advocacy**

## **Condition 8105 undermines the operation of condition 8202**

The 20 hour work restriction is inappropriate for mass education. It takes no account of the vast difference in the types of course structure in degrees and diplomas that international students now undertake. It effectively removes the students' capacity to properly manage their studies, and in fact undermines the discretion and responsibility that educational institutions have under the ESOS Act to intervene and assist international students at risk of breaching visa condition 8202 (Standard 10 and 11, National Code). When, as recognised by the April 2008 amendments to work rights, students have to work to maintain their financial stability, they must have the capacity to properly balance this with their studies, and allow work to follow the flow of their study timetable, *not* the other way around.

The rigid 20 hour work restriction effectively stymies the operation of the increased responsibilities placed upon education providers under the new ESOS National Code, to monitor and intervene in the case of academically at-risk students. It significantly disadvantages international students in respect of local students in the classroom. As an example: whilst a local student is free to work 60 hours for the 2 weeks after they have handed in assessments for 3 subjects, leaving them free not to work during the exam period, international students have no such flexibility.

The restriction does not recognise that some students are in courses whereby their end of semester exams can account for more than 70% of their assessment, and others have balanced assessment throughout the semester. Students, and academic staff must be able to, through the processes mandated in the National Code, work together to ensure compliance with the visa condition most able to assess a student's "genuineness": condition 8202. The lack of flexibility around visa condition 8105 acts as a barrier to this.

(vi) employment rights and protections from exploitation, and the working conditions of international students.

## **The experience of UNITE international student members in the workplace**

UNITE members working in 7-Eleven stores have all experienced unpaid trial work. UNITE members cite lack of workplace experience and desperation for work as informing their decision to take unpaid trial work in order to secure paid employment later.

Mohamed, a 26-year old UNITE member from India, studying on a 573 higher education visa, recalls his experience of unpaid trial work:

**“One month after I arrived in Australia a Geelong 7-Eleven store offered me a sales assistant job. The job post wasn’t advertised. It was a one of many random shops that I applied. But to be successful to get the job I had to do training for more than two months without any pay. They used to call me any time and ask me to clean, the toilet, mop, or jump on the ladder and clean on top of the name board and ceilings which anyone would never had touched in the life that shop.**

**“Sometimes, I was called in busy time to stand outside the counter and watch the shop picking and trouble making peoples and kick them out. Many times I got into arguments and sometimes into fights as well.**

**“I kept on asking for paid shift. But the owners and the manager were successful in convincing me to stay working without pay until they are convinced to give me a paid shift.**

**“On 7<sup>th</sup> March 2007 unpaid training started and on 8<sup>th</sup> May 2007 the first paid shift started. It was only one paid shift in first few weeks. During this time, I still had to continue 3 to 4 unpaid shifts a week.”<sup>16</sup>**

Not only has Mohamed undertaken several months of unpaid trial work, for which he is still owed money: Mohamed was effectively working as a security guard in a notorious trouble spot, with no training, no support and no pay. The risk of serious injury or death to this student cannot be overstated. The breaches of workplace law are many.

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<sup>16</sup> Author’s interview with Mohamed, 14<sup>th</sup> August 2009

## **Reflections on dealing with the Fair Work Ombudsman:**

UNITE has worked closely with the Fair Work Ombudsman in Victoria to investigate claims of gross exploitation and underpayment of international students in the Geelong area and Melbourne CBD 7-Eleven stores.

Five 7-Eleven stores in Melbourne's CBD have already reimbursed 88 workers \$112,000.<sup>17</sup> A sixth 7-Eleven store has been instructed to credit almost 1000 hours of annual leave back to 12 workers who were not accruing the entitlement but should have been.

The Fair Work Ombudsman said that "The random audits followed public allegations by a retail union that young employees were being exploited and that some employers were forging employment records."

The underpayments found at each store were \$32,134 for 18 workers, \$27,053 for 25 workers, \$24,987 for 25 workers, \$23,671 for 16 workers and \$3,615 for four workers.<sup>18</sup>

UNITE estimates that for just one of the 7-Eleven stores currently under investigation in Geelong, the workers are owed between \$5000 and \$30,000 each! Some of this money is for wages owed to the students for between 40 and 320 hours EACH of unpaid trial work.

Coupled with similar cases from the Fair Work Ombudsman in Sydney, this indicates to UNITE that there is an epidemic of underpayment and exploitation in industries in which international students are increasingly the majority of employees. Indeed our members report that unpaid trial work is a burden many international student workers shoulder in their desperation to secure paid employment.

The Fair Work Ombudsman has been able to get significant amounts of back pay for the students with which UNITE has worked. However, the length of time it has taken to resolve cases is something that must be improved if the government is serious about addressing the workplace exploitation of international students.

One case in Geelong has been active for over 8 months. The workers are owed thousands

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<sup>17</sup>for more information see UNITE "\$112,000 back paid to Melbourne 7-Eleven workers" available at

<http://www.unite.org.au/2009/07/27/112000-back-paid-to-melbourne-7-eleven-workers/> last accessed 14<sup>th</sup> August 2009

<sup>18</sup> FairWork Ombudsman, Media release, 25 July 2009

"Watchdog's random audits recoup \$112,000 for city convenience store workers"  
<http://www.fwo.gov.au/Media-centre/Pages/20090725.aspx> last viewed August 14th 2009

of dollars each and have not yet received one cent. Some workers fear that their visa will expire, and they will be sent home, before the case even goes to court.

A mechanism for ensuring that international students are in the country to study already exists. It is called visa condition 8202, and is managed via the obligations placed on students and educational institutions under the ESOS ACT, and then by the Minister under the existing regulations.

With this being the case the Senate should recommend to DIAC the removal of the 20 hour work restriction for international students. The restriction only acts as a barrier to students being able to come forward and complain about severe workplace exploitation.

## **UNITE concerns about private colleges and unpaid work**

"You had Treasury and the Reserve Bank saying that it was beneficial to increase the labour force and keep wages down. Imagine what it is like for Australians competing in areas where people are willing to work for free?"<sup>19</sup>

UNITE has grave concerns about the allegations of what amounts to a slave market operating in the regulatory gaps between the private colleges, the hairdressing, cookery and community welfare sector, and the requirements for skills assessment as overseen by Trades Recognition Australia and the Department of Immigration and Citizenship.

Several months ago, a UNITE organiser put in a call to Trades Recognition Australia to clarify whether or not the 900 hours work experience was to be paid. The answer was yes, but finding this material in print was quite a chore. In addition, there is absolutely no information given to students about this aspect of work in the Workplace Ombudsman's "Working in Australia: What are my workplace rights?" booklet, released to much fanfare in September 2008.<sup>20</sup>

In light of the extraordinary allegations being raised in the national media about students working for free – in fact, students paying for the privilege of being placed in workplaces

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<sup>19</sup>[Nick O'Malley Investigative Reporter "So painful and expensive to call Australia home" The Sydney Morning Herald, July 15, 2009 available at](#)

<http://www.smh.com.au/national/so-painful-and-expensive-to-call-australia-home-20090714-dk5g.html>

last accessed 14<sup>th</sup> August 2009

<sup>20</sup>Australian Government, Workplace Ombudsman, "Working in Australia: What are my workplace rights?" 25 August 2008

were they will not be paid<sup>21</sup> – it seems almost unbelievable that the Fair Work Ombudsman can provide no direction to students about what their rights are in these workplace arrangements, when they are such an integral part of the private training college economy.

UNITE organisers have recently become involved, in an advisory capacity, with a student case in Brisbane, involving an international student from India. The student (a Hindu whose religious practice, incidentally, involves absolutely no contact with raw meat) wished to study automotive engineering in Australia. Upon arrival in Australia, he found himself instead enrolled in cookery by his agent. His phone calls to the agent's representative in Australia went unanswered up until the point that a counsellor at his college informed the agent, without the student's permission, that the student wished to take legal action against the agent. The agent promptly made contact with the student, threatening him with deportation if he attempted to change colleges. The student's current college does not even offer automotive engineering. This student is currently working with a student union activist in Brisbane to prepare documentation in order to facilitate his release from his current college. UNITE should be in a position, by the time of the Senate hearings into this matter, to present further information to the committee on the progress of this case.

In the process of this investigation, UNITE has been informed by local students in Brisbane, who have worked alongside international students studying cookery in local restaurants, of a thriving market in cheap restaurant labour, and the difficulty of local students accessing lowest entry level positions in restaurants because of the availability of free international student labour. Of course, once the international students are fully qualified, they become unemployable – our informants suggest that employers have no interest in hiring a qualified international student chef who may have undertaken little more than a year's training at a private college with a poor reputation, as opposed to a fully apprenticed local chef with 4 years experience.

In some cases, upon the insistence of fellow workers, who were aware that the international students were working for free, international students in a particular restaurant were shifted from “dish-pigging” to work that might actually assist them to gain some experience in commercial cookery – up one level in the kitchen to peeling prawns. This was considered a step up by our local student informant, though he wryly noted that one does not really need 900 hours experience peeling prawns to get the hang of the job.

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<sup>21</sup>Nick O'Malley, Heath Gilmore and Erik Jensen, “Foreign students exploited as slaves”, July 15<sup>th</sup> 2009

<http://www.smh.com.au/national/foreign-students-exploited-as-slaves-20090714-dk52.html>

## **Recommendations:**

**UNITE endorses the National Union of Students recommendation that an education ombudsman be created, with sufficient powers to ensure international students workplace rights are protected. This Ombudsman should have the power to recommend investigations by the Fair Work Ombudsman, to work with DIAC in relation to assisting students in breach of condition 8105 and assist students to access workplace justice.**

**UNITE recommends that a unit of the Fair Work Ombudsman be created to oversee the conditions under which international students are delivered workplace training.**

**UNITE recommends that in the interim, mandatory cancellation of an international student's visa for breaches of work rights be removed from the Migration regulations. UNITE recommends that "exceptional circumstances" be defined to include cases of workplace exploitation. In cases of employers breaching workplace law, students should be able to access appeals mechanisms and be allowed to keep their substantive visa for the duration of the investigation, or a visa allowing them to continue both work and study for the duration of the investigation**

**UNITE recommends the development of multi-departmental processes, across DEWRR, DIAC and the Fair Work Ombudsman, to assist students reported for breaches of condition 8105 to participate in investigations of employer illegality. This may involve an amnesty or the granting of bridging visas and extensions for students who have been found to have been underpaid or otherwise exploited by employers.**

**UNITE recommends the ultimate abolition of condition 8105 for international students.**

In addition, educational institutions must take seriously their duty of care towards students. All educational institutions should be expected to provide information on workplace rights to enrolling students, and referrals to appropriate, independent advisory services including unions.

## Conclusion

It should be clear the UNITE does not advocate a position of further undermining the working conditions of international students by locking them out of labour markets in the perceived interest of Australian workers. We do NOT support a tightening of visa restrictions for international students. We believe that this position, advocated by some in the trade union movement, betrays a fundamental misunderstanding of the way that the work restrictions function to create racialised low-wage labour markets. UNITE believes in abolishing the 20 hour work restriction in the interests of both Australian citizen and resident workers, and international student visa holders.

There has been much made recently, in particular by the Immigration Minister, Chris Evans, on tightening up the rules and decoupling the education system from migration.<sup>22</sup> However, little has been said about the human cost to generations of international students who, since 2001 in particular, have been hood-winked and misled about their work and study opportunities, and have been lured to this country with false promises of accessing what they see as the perfectly legal and legitimate permanent migration pathway by unregistered and unmonitored education agents, and unscrupulous colleges.

In June 2009, media reports circulated of a robbery with a difference: a knife-wielding assailant was bargained down from taking the till money, to packets of cigarettes by a convenience store attendant in St Kilda.<sup>23</sup> Print media reports do not reveal what made the attendant take such a risk, to bargain with an armed attacker. TV news interviewed the attendant, an international student, who claimed he informed the thief that if he took money, it would come out of the attendant's wages (a clear breach of workplace law). The thief took pity on the attendant, and kissed his hand before leaving with cigarettes.

UNITE sincerely hopes that the Senate can look with at least the level of sympathy demonstrated by this thief, on the circumstances of international students in the workplace and those working hard to earn their degrees in private colleges and universities.

UNITE hopes that with a lifting of the work restrictions on international students, more will come forward to protest the abuses of workplace rights that force international students in the convenience store and taxi industries in particular, to often risk their lives to secure their meagre pay.<sup>24</sup>

These students are not the criminals. They are victims of a system that has seen a massive transfer of wealth from poorer families in India and China into university and college

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<sup>22</sup> Guy Healy, "Immigration link in doubt," *The Australian*, July 29<sup>th</sup> 2009

<sup>23</sup> Antonia Magee, "St Kilda robber cuts deal with store attendant for cigarettes", June 10 2009

<http://www.news.com.au/heraldsun/story/0,21985,25614306-661,00.html>

<sup>24</sup> "Taxi driver bashed in Mt Waverley", *Waverley Leader*, 1<sup>st</sup> June 2009

<http://waverley-leader.whereilive.com.au/news/story/taxi-driver-bashed-in-mt-waverley/>

coffers. There are potentially tens of thousands of students who are now trapped between the unmonitored free-for-all under which they were recruited and educated, and the Immigration Minister's desire to be seen to be doing something in the face of worsening diplomatic relations with India over violence against its citizens and a risk to the export industry that is higher education. His counterpart in Education, Julia Gillard, is notably missing in action in this area, having made little public comment on the treatment of international students.

International students, the victims of this system, may in the end face going home to their families with nothing to show for their time here, with degrees not worth the paper they are printed on and generations worth of money spent. Some may simply not be able to cope with this scenario.<sup>25</sup> This cannot be the outcome of the Senate's deliberations, or the audits into the system for which these students have been begging for years.<sup>26</sup> This situation has been allowed to arise precisely because various departments have had their eye on the dollar, and not on the welfare of students. International students must not continue to carry the burden of the neglect and inaction of state and federal government departments.

UNITE would be happy to discuss its recommendations with the committee further. International student UNITE members have indicated their willingness to share further information with the Senate Committee at the public hearings. We look forward to this opportunity.

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<sup>25</sup> Amanda Hodge, "Parent's of 'suicide' victims want justice", *The Australian*, July 15 2009

<http://www.theaustralian.news.com.au/story/0,25197,25784264-5013404,00.html>

<sup>26</sup> see for example David Rood, "Cash cow students take stand against uni", *The Age*, March 14<sup>th</sup> 2006



**Appendices:**

**Media coverage of the UNITE campaign, interview with  
UNITE international student member**

## Blitz on 24-hour shop pay levels

Sushi Das

August 16, 2008

THE national workplace watchdog is conducting a blitz on 24-hour convenience stores in central Melbourne to see if workers, many of them overseas students, are being exploited.

The crackdown follows claims by UNITE, a fast food and retail workers union, that 7-Eleven stores are underpaying staff, with some earning as little as \$9 an hour.

Workplace Ombudsman inspectors have conducted random visits to stores this week, demanding employment records to ensure workers were at least being paid minimum entitlements. The minimum wage in Australia is \$13.74 an hour.

Ombudsman spokesman Craig Bildstein said some employers did not always have all staff "on the books".

While 7-Eleven Stores Pty Ltd is wholly owned in Australia by the Withers and Barlow families, all 7-Eleven stores are operated by franchisees who manage the pay of their employees after advice on training and industrial relations law by the company's head office in Mount Waverley.

There are 32 7-Eleven stores in the CBD. The number of employees is not available.

UNITE secretary Anthony Main said it was hard to believe that a multinational company such as 7-Eleven was unaware that some of its franchisees might be exploiting workers, given that their "payroll is through head office".

He said an investigation by the union had found that franchisees were paying workers considerably less than what was shown on paperwork supplied to the 7-Eleven head office. He said workers were given "dodgy payslips" showing they were paid about \$22 an hour, but some were paid for less than half the hours they worked.

David Ginsberg, chief operating officer for Australia's 7-Eleven stores, said franchisees "operate separately to us as individual businessmen" but he was happy to assist the Ombudsman. He said the company would take action against franchisees found breaking the law.

## National Topics

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Dec 23, 2008

Foreign students exploited

By Roger Maynard

SYDNEY - International students in Australia are often given misleading information by overseas recruitment companies and frequently exploited in the workplace, a new report has claimed.

The report, which looked into the way the international student community is treated in Australia, has raised concerns about the lack of affordable accommodation and underpayment by employers, among other things.

The study, by The Overseas Student Experience Taskforce, focused on the state of Victoria and was instigated in September in the wake of media and word-of-mouth criticism about local conditions.

International education is Victoria's biggest service export, and as many as 133,000 foreign post-secondary, vocational and higher education students contributed an estimated A\$3.9 billion (S\$3.8 billion) to the state's economy last year.

Highlighting what it considered to be one of the central issues facing these students, the taskforce report said many of them fall victim to Australia's ban on foreign students working more than 20 hours a week.

Most work beyond the stipulated hours and live in constant fear of being reported to the authorities.

"The consequence is often that overseas students are at risk of workplace exploitation as they fear they will be reported to the immigration authorities and then deported," the report said.

An example of workplace discrimination it mentioned was the case where, for the same job, an Australian student was paid A\$14 an hour and an overseas student A\$9.

According to the Union for Fast Food and Retail Workers, this was only the tip of the iceberg.

In a submission to the taskforce, the union revealed the case of a Chinese student who worked for 20 days on a trial basis in a 7-Eleven franchise and alleged that the owner manipulated the books to misrepresent the number of hours worked for pay received.

"These kinds of horror stories should not, by now, be news to government," the union said.

"The 20-hour work restriction, coupled with the lack of avenues for international students to come forward to complain about breaches of workplace rights, has created a thriving black market in which gross underpayment of wages, fraud by employers, bullying and intimidation of international student workers thrives," it added in its submission.

In response, the taskforce recommended that students who performed well academically should be permitted to work for more than 20 hours a week.

It also recommended that education institutions be required to provide access to affordable and appropriate housing for overseas student in their first six to 12 months in Victoria.

On the question of offshore recruitment agencies providing misleading information, like favourable long-term visa outcomes, the inquiry urged the authorities to set up a register of education agents.

Australia's Immigration Minister has already pledged to widen legislative powers to tackle the problem.

While the taskforce's brief did not look at the standard of teaching in Victoria, the report does recommend "an effective and responsive quality-control process...recognising that Victoria's reputation for quality is hard won and can be easily tarnished".

The study comes hot on the heels of last week's federal Bradley Review of Australian Higher Education, which claimed that foreign students were all too often regarded as cash cows used to bolster budgets for domestic students and research.

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## Store staff 'told to pay for security'

March 11, 2009

Article from: [Australian Associated Press](#)

**WORKERS at a 7-Eleven store who say they are regularly abused by drunken revellers have been told they'll have to pay for security staff out of their own pockets, a union claims.**

7-Eleven disputes the claims but secretary of the Unite union Anthony Main today said store owner Eddy Chen had recently told staff at the Geelong outlet they must pay for security out of their pay packets in future.

"We have never come across this before," Mr Main said.

"We think it is totally outrageous that workers should be asked to pay for their own security while they are staffing a convenience store."

In a written reply, 7-Eleven national franchising manager Geraldine Dzielakowski said the store had not employed security for more than three years.

"The franchisee of the Moorabool Street store installed a start-of-the-art security system at the store approximately three years ago," Ms Dzielakowski said.

"The security system includes nine cameras, and was installed at a cost to the franchisee of approximately \$8000.

"As a result, the franchisee has not employed security guards at the store for approximately three years."

But Mr Main said the Saturday night guards had been working until last week, but were not officially considered "security guards" because they were not hired from a security company.

He also said staff were regularly abused by drunk patrons on their way home from the area's nightclubs.

Mr Chen said his English was insufficient to fully understand questions.

"They (staff) make a lot of stories ... I don't really understand what is going on," Mr Chen said.

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## EASY PREY: Young Geelong workers tell of exploitation and abuse

Aleks Devic

June 19th, 2009

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**GEELONG'S young workers are among the nation's most exploited when it comes to their employers ripping them off.**

Following a Geelong Advertiser investigation into the plight of young workers several horror stories have emerged including:

A FAST food worker receiving a black eye after having a drink thrown at them;

STAFF at a Geelong nightspot being told to remain on the premises after their shift finished for a debrief, sometimes waiting up to three hours without pay;

PARENTS finding it difficult to take their children to 5am shifts; and

TRAINING was often inadequate and at times employees were not paid for it.

**Are you a young worker who has become easy prey? Take our quick survey [here](#)**

Workplace Ombudsman statistics reveal 41 per cent of employers across Australia were underpaying staff aged between 15 and 24 with most in the retail and hospitality field.

In recent months, four Geelong businesses have been forced to pay money back to their employees including:

A 16-YEAR-OLD retail worker who was underpaid \$1650;

A 20-YEAR-OLD hair-and-beauty worker was underpaid \$1200;

A 21-YEAR-OLD construction apprentice was underpaid \$1020 in annual leave entitlements and wages; and

A 20-YEAR-OLD fast-food worker was not paid \$260 for some hours worked.

The Geelong Advertiser today starts its latest campaign called Easy Prey in a bid to stamp out youth exploitation.

The Federal Workplace Ombudsman's audit found Victoria had the largest amount of employers who underpaid staff and the watchdog recouped and back paid the young workers \$204,487.

Workplace Ombudsman executive director Michael Campbell told the Geelong Advertiser out of the 400 workplaces audited, hospitality, retail and accommodation industries were the worst offenders.

He said 80 per cent of breaches related to underpayment of wages and penalty rates.

## Former Geelong convenience store worker claims he was paid less than \$10 an hour

Aleks Devic

June 19th, 2009

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online poll



SHOULD the legal alcohol drinking age be raised to 21?

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Former convenience store worker Mohamed Rashid, who claims he was paid less than \$10 an hour, holds his work diary and bank statements. Photo: GLENN FERGUSON

**A GEELONG worker says he was forced to clean urine from a 7-Eleven store while being paid less than \$10 an hour.**

Mohamed Rashid was so desperate to get work he claims he underwent a two-month trial at the Moorabool St store without any pay.

[Have your say on the feedback form below](#)

He later juggled his architecture and construction studies at Deakin University while working up to 60 hours a week all while being paid below the minimum part-time wage of about \$16.

The 26-year-old claimed he received \$10 an hour, which was then taxed.

"I was doing everything to get the job and did things to please my boss because he was the only one who gave me a job," he said.

"It got really hectic for me because I was trying to study and work five, six days a week, but I wanted to please my owner and get a pay rise."

Mr Rashid said he endured some horror nights with customers while working at the city's 7-Eleven store.

But he was shocked when a man who tried to steal started urinating inside the store after he approached the offender.

"He got into a fight with other customers in the store because what he was doing was wrong," he said.



« [UNITE needs your help!](#)  
[UNITE action against 7-Eleven](#) »

### **Interview with 7-Eleven worker**

A UNITE organiser recently interviewed one of our newest members. Below he tells us a bit about his working conditions and life as an international student. Peter (who has withheld his real name for fear of discrimination) is 22 years old and works at a 7-Eleven store in the Melbourne CBD.

UNITE: What led you to first contact UNITE?

Peter: We saw an article about UNITE in the newspaper. They were helping some other shop workers who were being underpaid. We thought maybe they can help 7-Eleven workers as we all get very low pay.

UNITE: How long have you been working for 7-Eleven?

Peter: I have been working at 7-Eleven for just over 6 months. I was training for 1 month and then I got shifts after that. It's not a very good job but I need the work to pay my way through university. I am studying at Victoria University.

UNITE: What is the pay and conditions like at 7-Eleven?

Peter: I get \$10 per hour cash. It's a flat rate which means it's the same on day and night shift. I also get a few free drinks from the fridge but I have to pay for food.

I didn't get paid for my first month when I was training but I was told I would get a pay rise to \$11 per hour after the first 6 months. I am still waiting for this though.

I get 3 shifts a week. Sometimes they are at night from about 2am till 7am or during the day I usually work from about 7am till 7pm. These shifts vary a bit and usually I only get a days notice before I have to work. Without a proper roster it makes it hard to fit in my study.

UNITE: Do you think these pay rates and conditions are unique to your store?

Peter: No, no, no. It is roughly the same at every 7-Eleven store. The highest rate I have heard of is \$13 per hour. I even know someone in Queensland that works for 7-Eleven and the situation is the same up there.

UNITE: Do you get pay slips?

Peter: No I just get paid cash from the till. Some of the other workers do get pay slips and get paid by cheque or into their bank account. But the problem is the pay slips are wrong. Say you have worked 20 hours a week, the pay slip says you have only worked 10 hours. So you only get half of what you should. I know some other workers get



superannuation but I don't think I get this.

UNITE: 12 hour shifts are quite long, what about meal breaks?

Peter: No we don't get breaks. Mostly I work on my own so no one is around to relieve me for a break. My boss told me that the shop must stay open at all times. I usually try to eat something while I am working. If I need to go to the toilet I usually just go quickly when things are slow.

UNITE: 7-Eleven are a big company. Do you know how much money your store turns over?

Peter: I don't know exactly but the slowest shift I have ever done during the night made over \$1000 in sales. Some of the other workers have said that a lot of 7-Elevens in the city regularly take between \$10,000 and \$20,000 a day!

UNITE: How many people work in your store?

Peter: At the moment there are about 10 workers. We all only get a few shifts a week. This makes it hard as mostly my pay is around \$200 per week. Obviously you can not live on this amount so a lot of us have to work two jobs.

The worst thing about this is, being international students, we are not supposed to work more than 20 hours a week. This is a visa requirement. The problem is we are forced to break this rule because the pay is so low.

UNITE: Have you ever complained to the boss about the conditions at work?

Peter: Yes a few of us have raised the problems with the manager. He just said if you don't like it you can leave. Until we met UNITE we didn't know that we could do anything about it. We were not told anything about employment law before we started work.

UNITE: What do you think can be done to improve your working conditions?

Peter: We don't want anything special. We just want to get paid what we are entitled to, if I was getting the minimum wage I wouldn't need to work so many hours. Then I would have more time for my university work.

I think it is a terrible situation when a big company like 7-Eleven takes advantage of people, especially international students. Many of us have not had any work experience before. 7-Eleven can afford to pay us right, they have lots of money.

UNITE: You have joined UNITE do you think other 7-Eleven workers will join?

Peter: Yes, quite a few of us have already joined. There is a lot of talk about UNITE between 7-Eleven workers especially in the city. At university people are also talking about it. International students always mix together so the word spreads fast.

Some people are saying maybe we need to take action like the taxi drivers did a few months ago. They just stopped work and protested in the city. Maybe UNITE should do something like this.

This entry was posted on Monday, September 1st, 2008 at 10:50 am and is filed under [General](#). You can follow any responses to this entry through the [RSS 2.0](#) feed. Responses are currently closed, but you can [trackback](#) from your own site.

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