#ScraptheCap!
The problem of international student work restrictions and the solution

The Problem

Students are treated like customers, not people

Right now, there are 620,000 international students in Australia.[1] Over this year, the government has announced that more students will come to Australia than ever before.[2]

International students have long been treated as a source of income and labour for Australia – and nothing else. International education is worth $40.3 billion a year and creates 250,000 jobs.[3] That income comes from the fees that students pay to their colleges and universities, their rent, bills, childcare fees and importantly, the value of their work. In short, international education is big business.

For the past twenty years, governments have shown no interest in the rights of international students once they arrive in Australia. Students are left to struggle with ever-increasing course fees, predatory landlords and education agents. They have to pay out of pocket for the most basic services – from childcare to healthcare.

Wage theft from international students is endemic. A 2021 survey of thousands of international students revealed that 77 percent were paid below the minimum casual hourly wage.[4] Less than ten percent of those students took action to recover their stolen wages.[5]

The threat of visa cancellation keeps students quiet

The key to international students' vulnerability is the harsh work limit that applies to their visas.

Since 2012, students have been restricted to working 40 hours a fortnight while their course is 'in session.'[6] Students who work more than those hours face cancellation of their visa – even if they were forced into it by their employer, or simply couldn't make ends meet otherwise. A student who was forced to work 80 hours per fortnight, because their employer was paying them half the hourly wage they would earn at 40 hours per fortnight, would still be faced with visa cancellation.

Visa cancellation means the end of a student's future in Australia. It means losing legal status, possibly being detained. It means years and thousands of dollars spent pursuing appeals, while prevented from either working or continuing study. And if a student is ultimately removed from the country after having their visa cancelled, it means at least a three-year ban on returning to Australia.[7]

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[1] Australian Trade and Investments Commission, 'Education Data - Monthly Summary' https://www.austrade.gov.au/australian/education/education-data/current-data/summaries-and-news.

[2] Australian Financial Review, 'International Students to Return En Masse in 2023' 25 August 2022 https://www.afr.com/work-and-careers/education/international-students-to-return-en-masse-in-2023-20220825-p5bcpy.

[3] The Conversation, 'Australia's Strategy to Revive International Education is Right to Aim for More Diversity,' 26 November 2022 https://theconversation.com/australias-strategy-to-revive-international-education-is-right-to-aim-for-more-diversity-172620#:~:text=International%20education%20has%20been%20a,year%20and%20supported%20250,000%20jobs..

[4] Migrant Justice Institute, *International Students and Wage Theft in Australia* https://static1.squarespace.com/static/593f6d9fe4fcb5c458624206/t/5ef01b321f1bd30702bfcae4/1592793915138/Wage+Theft+and+International+Students+2020.pdf.

[5] Ibid; Migrant Justice Institute and Human Rights Law Centre, *Breaking the Silence: A Proposal for Whistleblower Protections* https://www.hrlc.org.au/reports-news-commentary/report-breaking-the-silence.

[6] Parliament of Australia, 'Overseas Students: immigration policy changes 1997-2015' https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1516/OverseasStudents.

[7] Department of Home Affairs, 'Status Resolution Service - What is a Re-Entry Ban' https://immi.homeaffairs.gov.au/what-we-do/status-resolution-service/re-entry-

In short, the threat of visa cancellation means that students stay quiet about their conditions at work, no matter how bad they get.

The government wants to re-impose the work-hours cap

During the COVID-19 pandemic, the government didn't lift the work condition on Student visas – but it assured students they could work for unlimited hours, without having their visa cancelled.[8]

This was because Australia couldn't survive the pandemic without international students. From stacking supermarket shelves, making deliveries and staffing kitchens, international students supported Australia through the pandemic for three long years.

But late last year, the Labor government announced that it would re-impose the work cap from 1 July 2023.[9] From that date, the Labor government has said that students will be limited to working 48 hours per fortnight.

This means that any student who works over that limit from 1 July 2023, no matter what the reason, will face visa cancellation and the threat of removal from Australia.

International students deserve better.

The Solution

There is a simple solution to stop students from being exploited and silenced at work: **scrap the work-hours cap.**

For the past three years, there has been no limit on international students working in Australia. That has been effective, sensible and allowed students to work on the same footing as everyone else. *The cap should be permanently lifted to ensure that students have the same rights at work.*

Lifting the cap won't stop students studying

Governments often say that the work limit on Student visas is to ensure that international students focus on their studies.

But that is condescending – we don't impose a work limit on students in Australia to keep them in TAFE or university.

And besides, Student visas are subject to a separate study-related condition – 8202 – which means that students must continue to progress through their course.[10] There is no need or justification for a separate work cap to ensure that students stay enrolled.

Over the past three years, while the work cap has been suspended, there has been no evidence of students abandoning their courses, colleges or universities shutting their doors due to lack of enrolments.

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ban#:~:text=A%20re%2Dentry%20ban%2C%20also,person%20breaches%20their%20visa%20conditions.&text=your%20visa%20is%20cancelled%20because,the%20Department%20of%20Home%20Affairs./

[8] Minister for Home Affairs, 'More Support for the Australian Tourism and Hospitality Sector,' 8 May 2021 https://minister.homeaffairs.gov.au/AlexHawke/Pages/support-for-australian-tourism-and-hospitality.aspx./

[9] Minister for Home Affairs, 'Addressing Skills Shortages in Key Industries and Rebuilding the International Education Sector' 21 February 2023 https://minister.homeaffairs.gov.au/ClareONeil/Pages/addressing-skills-shortages-in-key-industries-international-education-sector.aspx.

[10] Department of Home Affairs, 'Fact Sheet - Student Visa Holders - Changing Courses' https://southafrica.embassy.gov.au/files/pret/IMMI%20-%20Fact%20sheet%20-%20Student%20visa%20holders%20condition%208202.pdf.

There is no reason to impose a work cap just to ensure that students continue to study.

Lifting the cap will make conditions better for everyone

Another common justification for the work-hours cap is that it prevents Student visa holders from competing with 'local workers' for jobs.

As well as being exclusionary, this argument does not stack up.

Students have to work when they come to Australia. International course fees can be up to $50,000 per year.[11] The cost of living in Australia's capital cities – where most international students end up[12] – is amongst the highest in the world.[13] And there are endless, unexpected expenses – including the cost of legal advice and further application fees, charges for English language and other professional tests required for further visas. With or without the work-hours cap, international students *have to work* in order to survive in Australia.

The work-hours cap does not prevent Student visa holders from working – it simply *excludes them* from reliable part-time or full-time work, and forces them to take up casual and insecure jobs.[14] The work cap means that employers of international students know they can get away with underpayment and mistreatment, because students will not risk drawing attention to their work for fear of visa cancellation.[15]

The confidence of employers in the silence of their workers means that entire industries have become dominated by underpaid, overworked international students – from hospitality, cleaning to security. The result is lower wages and conditions for *all workers* in those industries.

Lifting the work-hours cap and putting Student visa holders on an equal footing means that they will be able to speak up about their wages and conditions. This will improve wages and conditions for all workers, no matter their visa status.

What Can be Done?

To join our action to **#ScraptheCap** on international students, you can:

1. **Sign our Open Letter –** if you are part of an organisation, join with us by having your organisation sign our open letter, which we will present to Ministers Giles and O'Neill on behalf of the community;
2. **Write to Ministers O'Neill and Giles –** using our letter as a template;
3. **Social Media –** follow and amplify the posts made by international students through @SNIS; share the attached social media tiles with #ScraptheCap, tagging @ClareONeilMP, @andrewjgiles, @JasonClareMP or your local Labor MP

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[11] SBS, ' 'Slap to the Face': International Students Outraged at Soaring University Fees,' 12 December 2021 https://www.sbs.com.au/news/article/slap-to-the-face-international-student-outraged-at-soaring-university-fees/hxtxqvewb?/?cid=news:search:gg:en:nacadigital:dsa:prog&gclid=EAIaIQobChMIpuSVhJyB_gIVxH4rCh3fTAwNEAMYASAAEgKThfD_BwE&gclsrc=aw.ds.

[12] Study in Australia, 'International Students in Australia - Statistics (2023)' https://www.studying-in-australia.org/international-students-in-australia-statistics/.

[13] Forbes, 'These Global Cities Have the Highest Cost of Living' 29 June 2022 https://www.forbes.com/sites/anthonytellez/2022/06/29/these-global-cities-have-the-highest-cost-of-living/?sh=5c752c352d3e.

[14] Migrant Workers Centre, *Insecure By Design: Australia's Migration System and Migrant Workers' Job Market Experience'* (2023) https://www.migrantworkers.org.au/insecure_by_design.

[15] Migrant Justice Institute and Human Rights Law Centre, *Breaking the Silence: A Proposal for Whistleblower Protections* https://www.hrlc.org.au/reports-news-commentary/report-breaking-the-silence.

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