The Land of Milk and Honey? The contemporary working lives of contingent youth labour

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Abstract

The 90th anniversary of the International Labour Organisation (ILO) in 2009 and its 'Decent Work' campaign presented an opportune time to investigate contingent youth labour and, more specifically, student migrants. Underpinning this investigation is the fact that the export education industry is one of New Zealand's fastest growing, high-value, service export sectors and is the fifth largest export earner. This paper examines the type of employment involving youth international students and presents tentative evidence to show that many international student workers are forced into exploitative and illegal forms of employment. It is also argued that given that the international education market is a significant contributor to New Zealand's economy, this area of research has wide policy implications. Finally, we ask the question: what potential reach does the ILO have to mitigate concerns associated with student migration?

Introduction

Financial, cultural, and educational exchange in a "shrinking world" (Infometrics, NRB and Skinnerstrategic, 2008: 12) means nearly three million tertiary students worldwide are involved in formal education outside their own country (Binning, 2010). Indicative of worldwide trends, export education has become increasingly important for the New Zealand economy, making up nearly 7 percent of New Zealand's export earnings and generating $2.3 billion in foreign exchange earnings for the local economy (Butcher, 2009). Export education foreign exchange earnings are higher as a proportion of GDP for New Zealand than any of the other main destination countries New Zealand competes with for foreign students (see Tables 1 and 2; Education NZ, 2008a). In 2008/09, 73,926 international students were approved to study, a 6per cent increase from 2007/08 (Education New Zealand, 2008b; New Zealand Visa Bureau, 2009). The largest category of student approvals was fee-paying students (82 percent), the main approval category being for those aged 18 to 24 years. Traditionally, students have come from China, South Korea, and Japan but numbers from these countries are falling, with Indian student numbers increasing. Changes in demographics are salient, reflecting not only how New Zealand is perceived as an education provider domestically, but also its reputation overseas[1].

Table 1: International University Students/Overall Population

Country / Population		Int. Unit Enrolments	Int. Students per 1000 population
Australia	21,487,000	177,760	8.27
UK	61,186,000	237,765	3.89
New Zealand	**4,286,000**	**21,136**	**4.93**
Canada	33,432,000	90,000	2.69
USA	305,682,000	623,805	2.04

Source: Education NZ, 2008a

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Table 2: International Education as a percentage of GDP

Country	% of GDP
New Zealand	**1.13%**
Australia	1.06%
UK	0.40%
Canada	0.25%
USA	0.16%

Source: Education NZ, 2008a

The international educational sector has not only grown considerably in the past decade but it has generated a number of interconnecting issues, including the transnational migration of people, economic imperatives of education, and potential conflict between education and paid work. While research to date has focused on migration outcomes (Ward, 2008; Bauder, 2006; Coppel, Dumont and Visco, 2001; Deshingkar and Start, 2003; Khoo and Birrell, 2002) or educational results, there is limited analysis delving into student migrants who are students and are *also* working (Nyland, Forbes-Mewett, Marginson, Ramia, Sewer and Smith, 2008). Existing research indicates that migrants are overrepresented in negative work outcomes, including poor occupational health and safety (Benach and Muntaner, 2007; Loh and Richardson, 2004). For many student migrants, their vulnerability may be increased when employed in jobs characterised by low wages, insecurity, and unclear employment relations legislation (Haque, 2002; Mackenzie and Forde, 2009; May, Wills, Kavita, Yara, Herbert and McIlwaine, 2006).

This article explores the work experiences of student migrants in order to ascertain whether the students participating in the study are experiencing marginalised and precarious conditions of employment. Beginning with a background of the issues inherent in student migration to New Zealand, a description of the characteristics of the student migrant worker will then be outlined. Finally, the initial findings of exploratory research will be presented, including the potential role for the ILO to address prospective labour market issues.

Student Migrant Work

While sizeable research quantifies the value of the education export market (Infometrics et al, 2008; Education NZ, 2008a; OECD, 2010a; b), there has been little evaluation of the experiences students have while studying in New Zealand (see Ministry of Education, 2006; Deloitte, 2008). As stated previously, to date the discussion has largely concentrated either on the working experiences of migrants or the educational experiences of international students rather than examining the working experiences of student migrants.

While little is known about the working experiences of student migrant workers, they are nonetheless emblematic of the internal and external diaspora of labour and increased interdependence between countries in terms of the exchange of labour (Cerny, Menz and Soederberg, 2005; Gill, 1995). The "subsequent fragmentation of employment relationships and the declining rate of trade union membership and collective action" (Council for Europe, 2005: 237) have further eroded worker protection, particularly for those more vulnerable workers. Research also shows that there has been exponential growth in precarious, non-standard employment arrangements in which employing migrant labour is now widespread, particularly in industries where non-standard, precarious employment is the norm (see Dyer, McDowell and Batnitzky, 2008; McLaren, Firkin, Spoonley, Dupuis, de Bruin and Inkson, 2004; OECD, 2009). Young workers also share a number of employment characteristics with migrant workers in that they are more likely to tolerate 'flexibility' and unpredictability in their employment conditions, as discussed below (Nicole-Drancourt, 1992). Moreover, by the very nature of their immigration status, student migrant workers are contingent labour. As with most other countries, the New Zealand immigration

regulations covering migrant student workers dictates that they can only work twenty hours per week. Nonetheless, this is not to conclude that *all* student migrants are involved in precarious work, rather that many may have poor employment conditions due to a variety of factors such as language difficulties, qualifications, work experience, and discrimination (Deloitte, 2008).

International research has also begun to explore the possible effects on wellbeing of different forms of work, such as shift work, being on-call, temporary, and part-time employment (Reitz, 1998; Pledger, Cumming, McDonald and Poland, 2009). In particular, researchers have begun to make a link between precarious and hazardous employment, conditions, poor pay, low union density and the use of vulnerable workers, such as migrant labour (see Quinlan, Bohle and Lamm, 2010; Funkhouser, 1993; Pollert and Charlwood, 2009; TUC, 2008; Cellier, Eyrolle and Bertrand; Ehrlich et al, 2004; Sargeant, 2009; Sargeant and Tucker, 2009). There is growing evidence that workers employed in informal work arrangements also have an above-average level of injury and illness, and report higher levels of work-related stress compared with workers employed in more formal working arrangements within the primary labour market (Virtanen, Kivimaki, Joensuu, Virtanen, Elovainio and Vahtera, 2005; Quinlan et al, 2010). In particular, there is emerging research to indicate migrant workers are frequently exposed to hazardous work conditions, and have higher rates of injury and illness compared to non-migrant workers in standard employment (McKay, Craw and Chopra, 2006; Bohle, Quinlan, Kennedy, and Williamson, 2004).

While there is some labour market data to indicate that youth international students are over represented in sectors where temporary and casual work is endemic, including agriculture, the service sector, and hospitality, there has been, generally, a lack of focus on youth labour and, in particular, on international students; and a paucity of information about the impact of student migration on the workforce in New Zealand. Further, the incomplete statistical information available captures *only* those engaged in the formal economy whereas the secondary labour market is where contingent work is situated. Complexities arise in capturing meaningful data sets from such workers as limited statistical data is collected (see Department of Labour, 2007b; Coppel et al., 2001). Literature tends to focus on quantifying the proportion of students employed and financial imperatives (Bexley, Devlin, James and Marginson, 2007; Curtis, 2000) or the effect employment has on academic results and wellbeing (Manthei and Gilmore, 2005; Merwood, 2007; Riggert, Boyle, Petrosko, Ash and Rude-Parkins, 2006; Zimmer-Gembeck and Mortimer, 2006). Nonetheless, the adverse effects of working while studying have been highlighted by McDonald, Bailey, Oliver and Pini (2007). The authors note that student workers are vulnerable to employer exploitation because of their limited work skills, high unemployment, under-employment, and poor knowledge of their rights. Many students find it necessary to work while studying, given the financial constraints they face while living in a foreign country, away from the economic security blanket of their home environment.

In 2007, the Ministry of Education and the Department of Labour (in Deloitte, 2008) acknowledged the lack of knowledge by integrating a number of new questions into the *National Survey of International Students* focusing on international students' experiences of working in New Zealand. Thirty-five percent of the students surveyed indicated that they were currently in part-time employment, mainly in hospitality or retail sectors. The main reasons students gave for opting to work part-time were to meet living and tuition costs, with 47 percent of students stating this was their main reason for working. Just over a quarter of students (26 percent) sought work experience directly relating to their area of study and a further 21 percent of students worked part-time simply to gain general work experience in New Zealand. Nonetheless while many student migrants work in addition to their study significant quantitative or qualitative information is not routinely collected to inform policy or debate.

Methodology

Initial concerns regarding student migrant workers were signposted during research for two Masters theses *Safe Enough? The Working Experiences of New Zealand Children* (Anderson, 2010) and *Employers' Use of Professional Contractors: Supplement or Substitute?* (Naidu, 2011). More broadly, the research sought to discuss the working conditions of student migrants and whether there is cause for concern. Auckland was considered an appropriate location to base the research as it is the primary youth migrant location (Department of Labour, 2007a). The numerous difficulties associated with researching migrant labour are acknowledged, as with any other vulnerable group (see Boocock, Hannif, Jamieson, Kjaer, Lamare, Lamm ... Wagstaffe, 2010; Jayaweera and Anderson, 2009). In particular, it is often problematic locating research participants who are willing to speak about their experiences, while language or cultural differences may affect comprehension of the issues as well as fear of 'being found out' for working illegally. Therefore, it is important to recognise that 'official measurements' may fail to capture detailed work experiences and definitional issues as well as inconsistencies are inherent in attempting to gather data of this kind. For this reason, a qualitative methodology was considered most appropriate to gain a more complex understanding of student migrants' working experiences reflecting multiple 'realities', and acknowledging major differences in ethnicity, place of study and language competency (Patton, 2002; Denzin and Lincoln, 1998; Golafshani, 2003).

Questions were asked in a survey where most questions followed a yes/no format, while other questions were open-ended, allowing respondents to voice their opinions in greater detail. During initial exploratory research, 74 surveys were collected. A further 10 student migrants were interviewed using open-ended, semi-structured questioning to further explore themes identified during the surveying phase. In all cases, participation in the research was anonymous and voluntary. Survey respondents were all university students, while the interviewees were from private training institutes and university. The student population here represents a number of ethnicities (see Table 3). All participants were aged between 18 and 25, consistent with definitions of youth and the dominant age group for migration for tertiary education (Kritz, 2006; Docquier and Marfouk, 2006).

Table 2: Gender

Gender	Number
Female	32 (43.2%)
Male	42 (56.8%)
Total	74

Table 3: Ethnicity of Survey Respondents

Ethnicity	Number of respondents
Asian: Chinese (27), Malaysian (5), Japanese (3) Indian (38)	63 (85.1%)
African	3 (4.1%)
European: Russian (4), German (2), French (2)	8 (10.8%)
Total	74

Key Findings and Discussion

Survey questions were designed to explore typical working experiences, centring on the themes of job types, wages and hours worked, working conditions, and health and safety. As questions were designed to capture the working experiences of a different cohort, some detail was missing. Therefore, the interviewing phase was intended to capture greater detail as well as seeing if survey findings could be indicative of concerns in the broader student migrant population.

Types of Work

Candidates were asked what jobs they worked in and while the types of work engaged in were varied, for the size of the survey (n = 74), over half the workers (42) were clustered in the hospitality and service sectors while a small but significant number were in agriculture (12 in total), typical of the New Zealand workforce (Callister and Didham, 2010) (see Table 4), but also sectors where illegal workers are significantly represented in (Garson, 1999; ICFTU, 2001; Allen and du Gay, 1994). Of note was the lack of professional positions listed, consistent with Deloitte's 2008 findings. This indicates student migrants may be concentrated in jobs at periphery of the labour market (see Atkinson, 1984; Walsh and Deery, 1997). In positions such as agriculture, there has been sustained media commentary that these jobs are unable to be filled by the domestic population, but "in most cases the pay and working conditions are poor and this is the key reason these jobs are not filled locally" (Minto, 2009). A number of those interviewed mentioned the difficulty for themselves or friends finding work in the current recessionary climate, citing lack of New Zealand experience, racism and not having networks through which to find work as the primary obstacles.

Table 4: Types of Work

Job category	Types of work
Manual labour	labourer, tiling, maintenance for a hire firm, light labouring, bulldozer operator, house painter
Agriculture/ horticulture	tomato packing, hothouse work, agricultural production, stable hand, milking cows, strawberry picking, fruit picking
Administration	receptionist, office administration, data entry
Retail	gift shop, clothing, checkout operator, fast food, cashier
Hospitality	bar waitress, bartender, pub work, translator, receptionist, delivery driver, dishwasher, waiting tables
Other	cleaning, paper round, factory work, housecleaning, computer repairs, car groomer, busboy, shelf stacker

Wages

Of the survey respondents, 28 out of 74 (or 37.8 percent) of respondents had been paid below the statutory minimal (at the time $12.50 per hour). This is a significant proportion, meaning almost 4 in 10 workers were being paid illegally and (presumably) cash in the hand. Particularly low pay rates were widespread in agriculture and horticulture where almost all workers (21/23 or 91.3 percent) were paid illegally, with 75 percent of all workers reporting illegal pay rates. This is consistent with Ross and Rasmussen's (2009: 96) contention that "migrant workers are found working in horticulture 'under the table' for as little as $6 an hour (less than half the statutory wage)". Of all 74 respondents, only 7 were earning significantly above minimum wage ($20+ per hour), with most (n = 26) earning between $12.50 and $15.00, and a few (n = 13) earning between $15.00 and $20.00. Those reporting persistently low, and in many cases illegal wages are cause for concern:

Chinese female, 18 years. Working at a discount store: 'I couldn't find anything. I know the (minimum) wage is more than $10 ($12.50) but (I) am lucky to work. Most of my friends can't find anything- so $7.00 is ok'.

Indian male, 23 years.Works in a shop: 'It (the pay) should be $15 to $18/ hour because expenses in city is much more as room rent is $130/week without grocery' (paid $10.00 per hour).

Indian female, 20 years. Washes dishes in a restaurant: 'They said they would pay the minimum wage. But when I got my pay it was only $8.00 (per hour). I asked them (why) and they said business was quiet and it was better if they paid cash to me. I know this is not allowed but I have no choice'.

Hours of work

Limited research suggests many migrants work far in excess of stipulated hours although information of this type is difficult to gather (for further discussion, see Chen and Madamba, 2000; Green, Owen and Jones, 2007). This is consistent with others engaging in low-skilled work, where the general trend is for longer hours further exacerbated by low pay rates (Boniface, 2007). In the case of student migrants, most are able legally to work up to 20 hours per week during semester time, and through the holidays if they have a visa allowing entry for longer than one year (Immigration New Zealand, 2010). However, students may work in excess of their visa conditions due to financial imperatives, such as repayment of educational loans as well as finding the cost of living in the host country higher than anticipated[2]. Initial findings indicate that pressure for extra hours is usually from the employer's side, and indications are that long hours may compromise the student's attendance and performance at their tertiary institution (Curtis and Shani, 2002). The adverse effects of working while studying were highlighted by McDonald et al (2007) in Australia; while research by Neill, Mulholland, Ross and Leckey (2004) identifies fifteen hours of work as a point beyond which "there may be a detrimental effect on academic performance" (ibid:136).

Survey responses indicated the majority of respondents worked between 15-20 hours per week (42, or 56.8 percent). However, the second largest proportion admitted typically working over twenty hours (22, or 29.7 per cent), while eight declared they worked fulltime (40 hours or more). This means over a third of the sample were working in clear violation of their visa conditions while many in the sample were 'on call' and working on a casual basis (28 out of 74, or 37.8 per cent). Such conditions are not illegal, but in the current economic climate, with a lack of jobs *in general*, the employment environment for migrant workers can be seen to have worsened (see Wu, Guo and Sheehan, 2010; ILO, 2010).

Due to the high incidence of precarious work indicated by surveying, interviewees were asked, in more detail, about the hours they worked. *All* ten interviewees said they had been asked to, or had worked more than the allowed 20 hours per week. This result is inconsistent with Deloitte's 2008 findings where only five percent of the student population surveyed outlined that they worked more than 20 hours per week, 47 percent stating they normally worked between 16 to 20 hours per week. However, McInnis and Hartley (2002) believe that many international students are unwilling to admit to working more than 20 hours per week as the consequence for working outside this limit involves withdrawal of the study visa. Therefore, one could reasonably assume that when student migrants are speaking to a regulatory and enforcement authority they may not necessarily give an accurate picture of their working hours or conditions. Responses below indicate instability of guaranteed hours, but also pressure to work longer hours if and when it suits the employer:

Korean male, 24 years. Working in horticulture outside Auckland: "It's (the job) not so bad. Too much travel - but they pay for that. Sometimes it is hard to fit in study, but I need a job. They want me more hours (than I am allowed). And they are not nice to me. Boring? Yes, but I have a job".

Thai male, 21 yr old hospitality student: "I work a lot at a Thai restaurant in the city, there are no fixed hours, and I get called whenever a function is scheduled or large booking are made during the weekdays. In the weekends I am always working all day. I thought doing a hospitality course will open doors for me, but all I can find work is in Thai takeaways or restaurants. The pay is minimum wage and usually weekend Saturday work is more than10 hours with no extra benefits, last week I came to work on Sunday and it was not busy during the day and I was told to go home and that the manager and the wife will manage it".

Malaysian female, 20 years. Works in a restaurant, waitressing: "Good to earn some money, but late nights, long hours. It is hard to get home (at that time). And I can't get time off when I need, only when he wants. There is no minimum working hours - makes it difficult when there is no work".

Health and Safety

Growing evidence indicates migrant workers are frequently exposed to hazardous work conditions, and have higher rates of injury and illness compared to non-migrant workers in standard employment (Bohle et al., 2004; Sergeant and Tucker 2009; McKay et al 2006; Bennett, 1993). In addition, workers employed in informal work arrangements are much more likely than formal workers to be exposed to poor working environments, low safety and health standards and environmental hazards, and report higher levels of work-related stress compared with workers employed in more formal working arrangements within the primary labour market (Withiam, 1997; Quinlan and Mayhew 2001; Virtanen et al, 2005). As a result, there is acknowledged difficulty in accurately measuring the wellbeing of all migrant workers as government databases rarely capture the working experiences, occupational injury, fatalities, and compensation claims of precariously-employed workers (Boocock et al, 2010).

Taking an encompassing view of health and safety by recognising factors, such as workplace security and working conditions, survey respondents were asked whether they felt safe in their workplaces, and why or why not. Of the 74 surveys, five chose not to respond while 46 (62.2 percent) answered that they did feel safe. However, a number answered with qualifiers such as "but I get left alone at night", "drunk men make me feel nervous" or "I know some of what I do is not my job and I shouldn't (be performing the tasks), but that's ok". The remainder (23 or 31.1 percent) answered that they felt unsafe in the course of their work and had experienced unsafe working practices:

Chinese female, 19 years. Enrolled at a private training institute. Working in a gift shop (Sole charge): "Often I don't feel safe… Late nights and by myself. I worry… hope they (the customers) are not shoplifting. My English is not good to tell them no".

Vietnamese, male, 24 years. Cleaning in a hotel: "Language difficulties you know. Sometimes it hard to understand what they (bosses) saying. Cleaning job is so hard, and it makes a lot of physical problems".

Working Experiences

While the variety in students demonstrates diverse working experiences, universal themes were identified relating to job types, equity issues as well as workplace safety. Indicators of vulnerability were also identified, namely working hours in excess of visa conditions, rates of pay below legal minima, and insecurity of work: either through contractual arrangements or in the type of work engaged in. Nevertheless, not all findings were negative; with 35 per cent (26 out of 74) of survey respondents citing gaining New Zealand work experience, meeting New Zealanders and financial security as positive factors of their work. Overwhelmingly though, at both surveying and interviewing stages recurring themes of fairness, equity and poor working conditions were evident:

Indian female, 19 years. Works for an Indian restaurant, cleaning dishes: "I got the job from a guy I met here, he knew the family. Everyone is Indian, they know we work hard. The job is bad, but I have a loan, and if I stay I need (work) experience. They (the owners) are not friendly - if you ask for anything they (the owners) let you go. So I just do my job".

Indian male, 20 years: "It took me 5 months to find a part time job in Auckland, when I finally found one as store man in a large Indian grocery store I was asked to do 3 weeks free training, I said yes because I thought training will allow me to get the job, but after my training finished I was told its not busy now and that I will be called when it gets busy again, I later found out that the manager did this for other students before me. Not only did I waste my time I did not get paid for training".

A common trend was identified where a number of students felt that they had been given inaccurate information before arrival regarding high living costs in Auckland, as the statement below illustrate:

Malaysian male, 22 years. Working as a liquor store manager without a manager's license: "It's expensive to live… more than they said. So sometimes I miss class, for extra money. I don't like it (the job), but I need to work".

Russian female, 21 years. Working in a clothing shop and office cleaning: "I was told there were good jobs in New Zealand, better (than Russia). (That may be) true but I cannot get them".

Interviewees were asked whether they knew their employment rights. All ten had extremely limited knowledge of legislation governing employment practices while some had been threatened with being reported to immigration if they questioned the terms of their employment. They also indicated that jobs are quickly obtained through 'word of mouth' within ethnic communities, where student migrants assume positions in low-skilled manual labour, service and hospitality, or in agricultural positions such as fruit picking. Often positions are organised through networks soon after arrival, and pressure is applied so more hours are worked than the legitimate twenty. This type of work has been found to be over-represented in having poor and/or illegal working conditions (Shelley, 2007; Pai, 2008; Minto, 2009).

Responses indicate that the scope of contingent youth labour practices is not just limited to young people simply having part-time jobs while studying. Initial findings indicate workers on overseas student visas provide a supplementary source of labour, with relatively little protection of work availability of conditions. Indicators of vulnerability were identified, namely working hours in excess of visa conditions, rates of pay below legal minimum, and insecurity of work, either through lack of protection or the type of work performed evident is that fear and poor knowledge are used as tactics by some employers of student migrant workers to mitigate wage demands and employment conditions. The Department of Labour's 2010 *Life After Study: International Students' settlement experiences in New Zealand* indicates that 69 percent of international students surveyed did not transition to work or residence, and most had left New Zealand within five years of getting their first student visas[3]. These concerning findings indicate structural problems in New Zealand student migrant protections where student workers may be vulnerable not only due to their working conditions, but also limited in their future opportunities within the labour market. It is therefore, appropriate to discuss the ILO's role in multilateral governance, and its potential influence on domestic regulation.

A Role for the ILO?

As we have argued, the 90th Anniversary of the ILO was a fitting time to examine the organisation's role in establishing multilateral convention framework aimed at protecting and promoting the rights

of all workers and, more specifically, to see whether or not the ILO is capable of exerting pressure on domestic policy to ensure the legal protection for student migrant workers. Notwithstanding, the role played by the ILO in influencing labour rights policies in various contexts is a matter of contention (Simpson, 1994; Alston, 2005; Rodgers, 2007) and while it may appear that the student migrant workers are covered by multiple conventions, there are inherent difficulties and a level of ambiguity for a number of reasons.

First, at an initial glance, student migrant workers are not only covered by conventions related to educational access, namely ILO Conventions' Numbers 169 and 182, (which is considered a social protection in and of itself), but they could also covered by the ILO Conventions Numbers 97 and 143 pertaining to migrant workers. In addition, the Decent Work Agenda[4], which seeks to address exploitative and hazardous working conditions and poor wages, may also extend to student migrant workers. The Decent Work Agenda (which is not subject to ratification) is an articulation of the ILO's four strategic objectives of creating jobs, guaranteeing rights at work, extending social protection, and promoting social dialogue (ILO, 2010; International Labour Office, 2009). However, under closer scrutiny, student migrant workers, *per se*, are not necessarily classified as 'vulnerable workers' under standard ILO definitions and are specifically excluded from the ILO's definition of migrant workers (see Elder, 2009 for further discussion; Nyland et al., 2004). Deumart, Marginson, Nyland, Ramia and Sawir (2004) argue, however, that student migrant workers in general should be covered by ILO protective conventions as they are indeed "vulnerable workers" given that as

> ...a globally mobile population they fall between the borders of the two national citizenship regimes, the nation of origin and the nation of education. There is no bilateral or multilateral framework whereby these national regimes are reconciled. Nor do the international agencies take up questions of student security (ibid: 1).

Second, for those young, student migrant workers employed in hazardous working conditions for long, non-standard hours and poor pay, there is a raft of protective ILO Conventions, commencing with the most basic rights pursuant under Conventions 1, 2, 5, 6, and 7 that pertain to minimum working age, including restrictions around working at night. But for many of the interviewees and respondents in this study, working in the informal economy was a reality; and while the ILO Conventions are as relevant in the informal economy as they are in the formal economy, there is a tension within the ILO between its position of 'promoting' employment in the informal economy as a convenient, low-cost way of creating jobs versus eliminating the often appalling conditions and pay inherent in this segment of the economy (see ILO, 1991; 2002 for further discussion). Moreover, the lack of resolve by most governments, including New Zealand, to either ratify or enforce the ILO Conventions or enact related regulations remains a significant barrier to universal protection of young student migrant workers.

Third, in a world where there is an unprecedented diaspora of labour and where businesses typically operate across jurisdictions, combined with a demand for labour market flexibility and increased labour productivity, questions are being raised as to the efficacy of both the ILO and governments to address the needs vulnerable workers. Constrained by its tripartite structure, its generally pragmatic approach and the inability to reconcile the divergent national interests have undermined, some would argue, the ability of the ILO to be effective in maintaining a coherent protective framework for "invisible" vulnerable groups of workers, such as student migrant workers (Douglas, Ferguson and Klett, 2004). Keohane and Nye (1977) also argue that given the multitude of different agendas operating within the multilateral institutions like the ILO, the line between domestic and foreign policy becomes blurred. However, Cerny et al (2005) negate the conception of international and domestic politics as being two separate arenas, "but parts of an interpenetrated set of webs of politics and governance that increasingly cut across and entangle the nations of the

world…" (ibid: 1), consistent with Ohmae's (1990) early theorising of globalisation as moving towards a "borderless world" (ibid: 7).

Moreover, migrants and youth rarely engage with established institutions or organisations that could represent their interests, such as trade unions, either at a local or international level. As the survey and interviews revealed, no respondents belonged to a union and no interviewees had noticed a union presence in their workplaces. Some of the reasons for the lack of trade union membership among student migrant workers are their lack of knowledge of trade unions and, because of the diminishing resources, an absence of union reach into the sectors where the student migrant work. Thus, attempting to develop and maintain protective standards and rights for vulnerable workers is clearly difficult when reliant on reconciling the divergent international and national interests while set against a changing labour market and declining trade union density (Employment Relations Service, 2009).

Finally, while New Zealand is a signatory to numerous ILO Conventions, regrettably the rhetoric of worker protection is not matched with government legislation or enforcement. Although immigration policies are touted to "attract and retain international students" (Merwood, 2008: 6), a lack of commitment by successive governments and their agencies to investigate or reform this problematic area of the labour market indicates that this is not the case. Improving labour legislation is the responsibility of domestic governments but the available national data does not consistently or accurately reflect what is occurring in New Zealand's labour market. This information deficit has been noted in the ILO's 2002 Report where New Zealand data was listed as not available. Furthermore, New Zealand domestic monitoring and enforcement capabilities are constrained by lack of numbers as well as funding. Combined with a lack of policy coherence, reporting and monitoring capacity between the ministries responsible for migration, labour and education, such weaknesses cannot be addressed by a multilateral mode of governance. Suffice to say, domestically, the government must work to establish a framework to ensure student migrants are adequately protected as the ILO's reach is influenced by the quality of information it receives to provide recommendations.

Conclusions

There continues to be criticism that the ILO has more bark than bite, given its weakness in monitoring or enforcement capability. By lacking the capability or capacity to enforce labour standards, its role could be seen as limited to advising and reprimanding. This has led to frequent allegations that the ILO 'has no teeth' and that its work consequently makes little difference in the labour practices of governments (Claude and Weston, 2006; Langille, 1997). Further, interpretation of multilateral legislation, domestically, does not give policy uniformity across countries, and the ratification and application of standards is uneven. Therefore, while the ILO advocates a 'best practice model' of legislative compliance, its reach is weakened by the need to ensure 'buy in' from countries to apply labour standards. Nonetheless, the rhetoric of multilateral governance is countered by the continued primacy of domestic legislation. In New Zealand's case, geographic isolation and distance from the seat of power means the ILO may not be perceived as relevant or useful by stakeholders.

Recently, there has been considerable interest in poor working conditions experienced by migrant workers. This has arisen against the backdrop of broader debates surrounding precarious work and definitions of worker vulnerability. Nevertheless, little concern has been raised regarding the working lives and experience of *student* migrants despite their comprising an important category of migrant workers. Research to date has primarily concentrated on either the working experiences of migrants or the educational experiences of international students, rather than examining the working experiences of international students – many of whom can be considered a growing component of

the migrant workforce. Initial exploratory research indicates that international students' working experiences are typical of migrant workers: they are often located in contingent and precarious employment, working long hours in hazardous conditions for low wages, in dangerous positions, with little regulation, supervision, and poor remuneration. While these working conditions are often illegal, there appears to be little government impetus for monitoring or enforcement. Additionally, for many migrants, the working conditions they routinely labour under add little to their prospects of securing permanent residency or work related to their studies. While a small sample size, findings are consistent with other overseas studies showing that migrants exhibit many of the working conditions that would classify them as vulnerable workers.

Such findings have significance for the ILO's role within the multilateral system, but there are a number of limitations. It remains to be seen whether the Decent Work Agenda and associated conventions can be translated into sustained and more effective promotion of international labour standards, and if the ILO actually has scope and reach in mitigating concerns associated with student labour. The answer ultimately depends on whether the commitment to the ILO's goals is more than skin-deep for member states (Elliot, 2000). Inconsistencies are evident within the ILO's application of governance, combined with conflict between domestic and international policy imperatives. These weaknesses may a mean a 'watering down' of public policy in the tripartite structure and the 'one size fits all' model will successfully address the myriad of employment issues associated with student migrants. Combined with a lack of monitoring and enforcement of labour regulations, perhaps the ILO continues to be an institution of compromise within a flawed mechanism (Alston, 2005). Further research is needed to ascertain whether student migrants *in general* are manipulated and mistreated within the current New Zealand immigration and employment legislative policy framework; and whether the ILO is able to play a greater role in addressing the concerns associated with this vulnerable worker cohort.

Notes

[1] Export education industry was adversely impacted in 2002-2003 when crimes committed on and by Chinese students in New Zealand made headlines internationally, leading to a sharp decline in student numbers

[2] While there is an assumption many students coming to New Zealand to study are wealthy, this is often not the case. Some may have their parents financially supporting them, but this may be seen as an investment, to be 'paid back' in kind later. Many will be the first in their family to attend a tertiary institution so will have considerable financial pressure, as well as familial expectations. Cases of borrowing dowry money and obtaining loans through money lenders were mentioned in the interviews.

[3] To counter, it could be argued that greater opportunities are afforded so they are able to pursue overseas work. Also, those who remain in New Zealand and gain residency are able to move to live and work freely in Australia. As this data is not collected, little is actually known about the final destination of student migrants leaving New Zealand.

[4] The ILO actively promotes the ratification of International Labour Conventions No. 97 and No. 143 and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The 1949 Convention No. 97 Migration for Employment Convention stipulates that legal foreign workers must have equal access to social security and trade union membership, good conditions of work, and equal pay compared to local employees. The 1975 Migrant Workers (Supplementary Provisions) Convention, no 143. protects "the interests of workers when employed in countries other than their own" (ILO, 1975), preventing trafficking and illegal employment of such workers, and promote equality of opportunity and treatment of migrant

workers legally within a country. However, 1998 General Survey the International Labour Organisation found member states had difficulty in applying the detail and ratification (Claude and Eston, 2006). Convention No. 143 has not been ratified by New Zealand.

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