

# Mapping Progress: Human Rights and International Students in Australia

**Andrew Jakubowicz**

**University of Technology Sydney**

**Devaki Monani**

**Australian Catholic University**

## **Abstract**

The rapid growth in international student numbers in Australia in the first decade of the 2000s was accompanied by a series of public crises. The most important of these was the outbreak in Melbourne Victoria and elsewhere of physical attacks on the students. Investigations at the time also pointed to cases of gross exploitation, an array of threats that severely compromised their human rights. This paper reviews and pursues the outcomes of a report prepared by the authors in 2010 for Universities Australia and the Human Rights Commission. The report reviewed social science research and proposed a series of priorities for human rights interventions that were part of the Human Rights Commission's considerations. New activity, following the innovation of having international students specifically considered by the Human Rights Commission, points to initiatives that have not fully addressed the wide range of questions at state.

## **Introduction**

### *International Students and the crisis in human rights*

One of the most controversial areas of global human rights debates lies in that area where state actors are called on to defend rights and prosecute breaches associated with non-citizens. Nowhere is this more apparent than in the case of international students studying in a country in which they do not have citizenship. Furthermore all the most difficult issues are intensified in circumstances where international education is a significant industry, and international students are perceived in practice as sources of income for financially-stressed universities, colleges and schools. In many cases the students are recruited in an attempt by profit making institutions to optimise income flow. These institutions may subordinate their educational and pastoral responsibilities to the economic interests of their shareholders. In the

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first decade of the century, Australia became very adept at developing educational programs and recruitment strategies that would attract many hundreds of thousands of students, a significant number of whom came from India. They were destined, at the 'high end', for post-graduate research study of great value to their countries of origin and Australia, while at the less qualified level many began in secondary school, or undertook low-level English language acquisition programs, or trade qualifications.

The year 2008 exemplified the rate of change and the size of the pressures on the system (Australian Government, 2008). In that year there were 544,000 international students in Australia, about 3% of the population, a year on year increase of 21%. The largest single group, from China, had risen 20% to a total of 130,000. Students from India, at number two, had increased by 54%, approaching 100,000. None of the institutions or the communities in which they were located had made any real provision for such a meteoric increase. Issues like human rights and the implications of the changing population make-up were not on the agenda of the Human Rights Commission, nor of interest to government bodies at the state level charged with the wellbeing of students, local or international. The enrolment of foreign students peaked in 2009, with China supplying 155,000 (up another 18%), and India 121,000 (up another 25%) (Australian Government, 2009). Indian students became the focus of public attention in 2009, when there were reports of widespread attacks on them, and a number of students or ex-students were murdered. Discussing this phenomenon, Dunn *et al.* (2011a) reported evidence of a 'curry-bashing' subculture in parts of Melbourne that clearly fits ideas of racism.

Singh (2011) shows that Indian students and their families were involved in nearly \$3 billion of transfers to Australia in December 2010. They had a strong expectation of gaining permanent residence (PR) and were using education for planned migration outcomes. When the Indian student crisis reached its crescendo in Australia in 2009, the Australian Human Rights Commission arrived at a rather late awareness that the rights of students should be a central issue for resolution and progress. As with many temporary residents, the Australian human rights debate had essentially passed international students by. Occasionally they were referenced in discussion of racism, but for the most part, they had not been considered within the civil rights debate in Australia. Consequently, the major agencies for the protection of human rights were poorly prepared when the bashings, murders and other intimidation and exploitation of international students surfaced in 2008. The circumstances had long been

known to some local and state agencies, but there was no real discourse available to draw on for the students, their advocates and agencies, who were anxious to engage with government, universities and colleges.

It took the racialisation of the debate, as media and political focus intensified on Indian (and particularly Punjabi students), to demonstrate how deeply embedded racialism was in public policy assumptions. Xenophobic, rather than specifically racial, dynamics may have been at work, given the all-encompassing and indiscriminate nature of the key human rights complaints. Indians were by no means the only targets (or in some cases they were also perpetrators) in the events under review. The complaints, when they appeared, were drawn out of generally wary students from a range of countries. The range of issues included experiences of racialised violence, housing exploitation, lack of transport access, employment exploitation and racial and sexual harassment.

### *Student Responses*

In this article we want to present an overview of the responses that emerged at the advent of the student crisis. The article argues for the need for universities in Australia to adopt if not all at least in part the human rights principles when dealing with international students. The 2010 debates were fuelled by three key concerns – the projections on the increasing population of Australia and the impact of these projections on the student population; the Baird report on state and federal governments' management of the international student industry<sup>1</sup> (2010); and the decisions of the Council of Australian Governments (COAG, 2010) on the presence of international students<sup>2</sup>.

Universities Australia (UA), the sector's umbrella and representative body, soon identified a serious lack of empirical knowledge as a major factor in its rather slow response to the issues as they affected the sector. UA approached the Human Rights Commission (HRC), who

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<sup>1</sup> Australia's education system encompasses four diverse sectors: English language intensive courses for overseas students (ELICOS) which deals with preparing students with English language competency and providing pathways to other more sophisticated courses; schools, both government and non-government; vocational education and training (VET), which consists of technical colleges, dual sector universities and private colleges providing technical and apprenticeship training programs; and higher education, which is the largest sector for international students, enrolling predominantly in universities (IEAC, 2013, p. 10).

<sup>2</sup> Because the VET courses in some cases gave maximum points to migrate to Australia, many Indian and Chinese students between 2005 and 2009 chose to enrol in those courses. The courses were run and managed by the TAFE sector as well as the private colleges. Section 2.2 of the Jakubowicz and Monani (2010, p. 6) report discusses the creation of the international industry in greater depth.

together with the Academy of the Social Sciences in Australia as the peak group for social science research, developed a series of symposia to identify and workshop what data there was about the international students' plight. The HRC role was crucial, as it framed the issues within a human rights perspective, and would therefore press for human rights relevant outcomes and programs. The symposia provided the first sustained occasions where scholars and policy-makers were asked to locate the international students crisis within a human rights paradigm. Social science insights predisposed analysts to examine to what extent and in what forms Australian institutional racism might play a role in perpetuating and tolerating situations of violence, exploitation and discrimination towards international students. The first step in any analysis of racist institutions that might condone racist practices lies in having them acknowledge that those types of question be asked of them.

The Indian student crisis, as it became known, triggered widespread soul-searching and some hard-headed policy reviews in Australia. The broad dimensions of these reviews included the revamping of visas, changes to permanent residency criteria, tighter controls on college and university enrolments, improved consumer rights, and the mapping out of a human rights charter of sorts covering international students. The intersection of economic issues and human rights issues has ensured that the crisis and its continuing aftermath remain pressing questions for diplomatic, trade, education, justice, health and housing portfolios of government, at national, state and local levels in Australia.

#### *Development of the Principles to Promote and Protect the Human Rights of International Students*

Public media attention has focused on the Indian students at the centre of well-publicised violence and exploitation, yet the issues continue to affect international students from many different backgrounds. Moreover, problems of urban violence and corrupt exploitation of vulnerable people are features of Australian society, rather than being generated by the characteristics of the national cultures of the students. The interaction of culture, opportunity, expectations and institutional practices suggests that a range of analytical approaches needs to be deployed to help develop longer-term strategies in public policy. This article draws on a Report prepared by the authors (Jakubowicz and Monani, 2010) for three of the key stakeholders in the development of evidence-based policy, namely Human Rights Australia (HRA), Universities Australia (UA), and the Academy for Social Sciences in Australia (ASSA). The previous report set the parameters for interrogating how the university sector

should understand the issues for the sector and the wider society, and how social science research could contribute to both understanding and responding to the negative experiences of some international students in Australia. While rapidly overtaken by events as government inquiries, delegations and crisis responses proliferated, the report underpinned what became the *Principles to Promote and Protect the Human Rights of International Students*, launched in Adelaide in October 2012 (<https://www.humanrights.gov.au/news/stories/new-international-students-guidelines-launched>). A recent 2015 review of the AHRC principles in action has once again placed racism and racial discrimination as one of the top three human rights issues facing international students, alongside employment and accommodation challenges (AHRC, 2015, p.10).

Our discussion paper (Jakubowicz and Monani, 2010), submitted to the Academy of Social Sciences Australia, contributed to shaping the parameters of the policy debate on international students' human rights principles developed by the Australian Human Rights Commission. Here, we wish to revisit the international students' human rights principles and present the current policy mandate on international students and human rights. This article is divided into two sections. The first describes and lays out the key features of the Indian student revolt and the lived experience of international students. The second section revisits the international student debate within a human rights paradigm as adopted by the Australian Human Rights Commission.

### **Racism and the lived experience of international students: Issues remain unaddressed**

From the moment that visuals of the Indian student protest began to unfold on television here in Australia and across Asia, panic set in in the minds of the Australian people. The protest was conducted in the wake of the screwdriver stabbing of a 25- year old Indian student, Sravan Kumar Theerthala, in May 2009. Students demanded safety and urged police authorities in Victoria to recognise the increase in race based hate crimes particularly towards Indian students. Indian students as 'foreigners' had managed to stage a revolt never seen before by the Australian public.

Nearly 2000 students chanted as they marched down Melbourne's streets, carrying signs which read 'I pay fees, I pay tax', 'I get stabbed in Oz' and 'Racism is more dangerous than swine flu'. Gautam Gupta, a spokesman for the Federation of Indian Students of Australia

(FISA), said that the protesters had issued a series of demands, which the State Government needed to meet.

We want a multicultural police section and we want crime statistics made public so that we know the extent of the problem. We want blanket cover for all international students, covering them for accidents and assaults and the government should run an ad campaign highlighting the positive influence that migrants and international students have made to this country. My advice to every Indian student now who wants to come to Australia is, Please don't come (Millar& Doherty, 2009).

Criticism was mounted against the Indian students by the police and the media for suggesting that Indian students were victims of racial crime. Instead, the Victorian police downplayed the issue of racism, and suggested that Indian students tended to carry expensive gadgets such as mobile phones and laptops thereby attracting unnecessary attention on public transport. Others, such as the vice-president for international students in 2009 at Victoria University in Melbourne, Andrew Holloway, blamed statistics instead. He stated that:

It just happens to be coincidental that there's a large number of South Asian students travelling on their own late at night time and if you look at it, the work patterns of Indian students are somewhat different from other students. They tend to work at 24/7 conveniences, petrol stations, late-at-night shops, and therefore are more likely to be on the public transport network late at night time (Waters and Macbean, 2009).

In contrast, the Islamic Council of Victoria suggested that it seemed to be an ill-conceived idea and, in particular, Nazeem Hussein expressed his disappointment:

I think it's one thing to help the victims look less like victims, sorry to look less Indian, but I think it's another thing to really attack the core issue here which is racism. And we're seeing not as much from the police that we would have probably expected. It's only a particular type of crime that is on the rise and that's crimes against people that look Indian. So really that statistic means not very much given that this particular crime is on the increase (Waters and Macbean, 2009).

The education industry in Australia was the hardest hit by the Indian student events and Australia gained a reputation for being an unsafe student destination. Suddenly the 'invisible international student' was now 'visible' and actively speaking out.

There is a gap in leadership around the issue of international students and more specifically around the tolerance of cultural diversity in Australia. Australia lacks a strong research base

about cultural diversity and racism on which to build good policy. International students' lives, and the lives of their families in their home countries, need to be presented in the Australian media in order to give locals a realistic perspective on international students and their journey to Australia. Instead, the media has focused on the destruction of the glass windows of the historic clocks around Flinders Street Station. Stories about student vandalism during the protests continued to be broadcast on Australian television (Millar, *The Age*, 31<sup>st</sup> May 2009) while in India, images of Indian students being stabbed and robbed were being repeatedly telecast (*Press Trust of India*, 15<sup>th</sup> June, 2009). Both countries have had to grapple with the reality of the violent nature of the racist crimes. For Australia, it has been a matter of shame, and for Indians, one where fear prevails even today about Australians and their attitudes towards Indians.

Two discourses emerged simultaneously in the academic literature about international students' experience in Australia. The first focused on the discriminatory interracial conflicts amongst international students and the locals. The second emphasised the rapid commercialisation of international education in Australia (Nyland, Forbes-Mewett & Hartel, 2013) as being one of the major causes for the discontent generated amongst international students (Jakubowicz & Monani, 2010). Nelson (2013), in her research on denial of racism and its implications for local action in Australia, reminds us of former Prime Minister Kevin Rudd's visit to India, where he denied racism was a factor in the attacks, portraying Indian students as victims solely of criminal intent by emphasising the 'opportunistic' nature of the attacks (Nelson, 2013, p. 92). Other studies conducted by Dunn *et al.* (2011b) note that when some attacks were described as racist, political leaders continued to oscillate back and forth between acknowledgement and denial of racism. Mason (2012 a), when analysing Australian politicians' responses<sup>3</sup>, examined an interwoven discourse of avoidance, nationalist rhetoric, and deflection. She expresses some disappointment at the strategy adopted by Australian Federal parliamentarians, one that neither acknowledges nor denies, whilst placing the racial attacks within a nationalist and crime-control rhetoric. This refusal to acknowledge the racial element in the attacks may have done serious harm to the victim community, and may have

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<sup>3</sup> The Australia India Institute (AII) was officially launched in New Delhi on 1 September 2009 by the then Deputy Prime Minister, Julia Gillard. In late 2009, the Australian Government Department of Education, Employment and Workplace Relations (DEEWR) provided just over \$8 million to the Australia India Institute over three years. The University of Melbourne contributed \$1.75 million in cash and in kind. The Australia India Institute aims to establish collaborative research projects on topics of mutual interest, to increase the professional linkages between Australia and India and to help Australians better understand contemporary India (AII, Annual Report, 2010).

been a major barrier to effective intervention aimed at prevention of a recurrence of such events, while also rendering it less likely that authorities would successfully complete investigations if victims withheld co-operation (Mason, 2012a, pp. 13-19).

The police faced a number of constraints in making available to the public declarations of crimes possibly motivated by racism, often seeking to confine their comments to the evidence at hand (Mason 2012b). The police's refusal to take the racist intent seriously was problematic. Some Indian students interpreted this as an active sidelining of what they identified as major life-threatening events emerging during their stay in Australia<sup>4</sup>. As Mason (2012b) concludes, this was perhaps one of the main reasons for a May 2009 international student rally at Flinders Street station in downtown Melbourne. Mason (2012b) draws on the frustration expressed by the Federation of Indian Students Association's president, Gautam Gupta, in his statement to the press: 'How can they say that none of these attacks were racist when we hear criminals saying terms like "Curry bashing"?' (Mason, 2012b, p. 46). Baas (2009) suggests 'curry bashing' is a relatively new epithet (imported from the UK perhaps) and is significantly linked to the 'disgust' expressed towards Indians by some white Australians. He draws from the blogosphere in Australia during 2005-2009 which sent out strong signals of hate towards the perceived 'hordes' of Indian students arriving in Australia. One blogger remarked that Indians are incapable of moving out of anyone's 'bloody way' when they walk around in groups in the city: 'so many of these 'f...ng Indians have crowded the streets of Melbourne' (Baas,2009, p. 39). Racist language keeps evolving in Australia according to the groups that migrate to Australia; however the intent remains the same. In this case, the group happened to be fee-paying international students of Indian origin.

Robertson (2008) suggests that between 1997 and 2009, the Australian education market was the third largest export after iron ore and coal. During this twelve-year period, four million international students were educated in Australia. Robertson (2008) maintains that, despite the high levels of profitability international students brought to Australia, academics such as Birrell, Healy and Kinnaird (2007) continued to express resentment that students were not readily integrating into the labour market on completion of their degrees and that they were

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<sup>4</sup> *The Age* newspaper reports that the helpline set up by Mr Vasan Srinivasan of the Federation of Indian Association of Victoria (FIAV) remains unattended. The Federation of Indian Association of Victoria receives funding to support students, because they are the peak community organisation in Victoria. The FIAV continues to deny that the attacks had any racist elements. See: <http://www.theage.com.au/national/indian-students-fearful-after-murder-20100105-lras.html>. This article also lists the names of students who lost their lives in the Melbourne attack.



not capable of gaining the necessary skills required to remain in Australia. Robertson (2013) criticises the way international students were characterised in both the literature and the media discourse in Australia. In her most recent article, Robertson (2013) claims students and student-migrant activism have been completely overlooked and overshadowed by more dominant discourses with racist undertones of international students wanting to permanently migrate to Australia. Nyland *et al.* (2013) urge 'education suppliers' to examine and enhance student needs and academic values. The authors send out a warning that discontent amongst international students can only make institutions further vulnerable, and pose challenges that can be potentially 'income damaging' (Nyland *et al.*, 2013, p. 37).

The lack of quality institutions in the home countries of the international students was not adequately picked up during the international student crisis in Australia. Rather, international students were blamed for taking away opportunities from local students through the admission processes for certain courses because of their ability to pay higher fees. Students were blamed for the rise in the rental market since Australian landlords preferred international students who were willing to pay higher prices for housing close to universities. This was despite research in Melbourne, showing students chose to live in suburbs that offered affordable rental options, most of which were also identified by locals as crime hubs (Babacan, Pyke, Bhathal, Gill, Grossman, and Bertone, 2010).

Nevertheless, 'international students' in Australian society began to be looked on as 'invaders', as young people who were here to stay, particularly as several degrees offered pathways to permanent residency in Australia. This debate left many in the Australian community incapable of viewing international students as lonely and vulnerable individuals who were often unable to speak the local language, had no local social connections and were indebted to financial institutions in their home countries or their families for the only opportunity they might ever have to receive a quality education such as that offered in Australia<sup>5</sup>.

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<sup>5</sup> By early 2009, the resentment and anger amongst Indian students in Victoria rose, and on 31 May 2009 an estimated crowd of 5000 gathered on the streets of Melbourne. The placards expressed the extreme vulnerability of Indian students in Australia with slogans such as 'unite against racism' and 'safety down under'. Taxi drivers had been expressing their distress and safety concerns since 2008 (Robertson, 2013, p. 1468). Indian student taxi drivers were looked on as problematic elements responsible for taking jobs away from Australian permanent resident taxi drivers.

Anecdotal evidence available through media transcripts reveals that the single biggest factor for Indian international students feeling vulnerable was the lack of empathetic response from their own communities. For instance, the president of the Federation of Indian Associations of Victoria, Vasana Srinivasan, stated:

I have been living here for the last 23 years ... but have never experienced any racial slur from the Australians. I have two young daughters; if they were racist, do you think I would have stayed in this country? (Sharma, 2010).

These sorts of comments were problematic for Indian students, because Mr. Vasana Srinivasan received significant funding for the Federation of Indian Association of Victoria to deliver an international student helpline (Indian express, 2009). In doing so, the Australian authorities rewarded those organisations that sided with the Australians. Students who were victims of racist attacks felt that by denying the racist nature of these attacks the individuals running the helpline were refusing to empathise with them. The gap between the Indian students and more established Indian community members widened<sup>6</sup> further when some members publicly attended forums and described themselves as the Friends of the Liberal Party of Australia. International students themselves cannot affiliate with political parties as they are not entitled to vote, even though some doctoral students could remain in Australia on an international student visa for over 10 years. When the more established communities of their country of origin flag political loyalties, the international student feels vulnerable, marginalised and under-represented.

In his election policy speech in 2001, Prime Minister John Howard declared a strict policing of immigration (Howard, 2001). He asserted that 'we' would decide how, when, and who came to Australia, and the circumstances in which they arrived. International students from Asia need to present family bank account statements, land and property details, and are usually required to pay a full fee prior to arriving in Australia. These policies demonstrate the desire to accept only wealthier students from developing countries. Like other developed countries, Australia has not extended education support to the most poor or financially needy students. However, because of the high dollar rate, even the wealthier Asian and Indian students can find it difficult to maintain the standards of living to which they were

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<sup>6</sup> Devaki Monani attended a meeting for the welfare of international students in collaboration with the Australia India Solidarity Group, Bharat Times and Victorian Multicultural Commission, on 14 June 2009 at West Footscray. The meeting also had Labor MP Marsha Thompson as an observer. The support for Indian students at the meeting was lacking. The majority of the attendees was of the opinion that Australia is not a racist country.

accustomed in their home countries. The students that Australia attracts from developing countries belong to wealthy families and hence are less likely to tolerate and accept discrimination. Many Indian and Chinese students held notions of implicit superiority, and thus, when the news broke out in many parts of the world of Australia's explicit racism, there was an instant downturn in numbers for the simple reason that students influenced their peers back in their home country with their experiences in Australia.

Much of the 2010 debate was framed by the national strategy for international education, and was subsequently adopted by the Council of Australian Governments (COAG). During this period the Australian Human Rights Commission (AHRC) identified various limitations in the National Students Strategy by COAG (see Jakubowicz and Monani, 2010, p. 19). These included:

- no strategic goals associated with combating racism (except through an undefined community engagement process that places the onus on the students to become engaged);
- no discussion of access to affordable transport;
- no discussion of access to affordable and appropriate accommodation;
- no affirmation of human rights.

However, on a closer review it was clear that the strategy focused on Australia's bureaucratic, political and economic context, overlooking the international students' needs and interests. For example, provider closure taskforces were to be established in each state to ensure rapid and coordinated support for students in the event of provider closure. Yet to what extent students would be able to get full compensation for the sudden closures of private colleges was uncertain. Anecdotal evidence suggests that some students remained in a limbo about their future in Australia since their visas were linked to their courses of study. The issues are many, and the challenge is to ensure that there is a mechanism in place to ensure that student rights are protected; and by the same token, students also become aware of their own responsibilities. In our previous report we recommended these issues be considered at state and national policy levels (Jakubowicz and Monani, 2010).

## **Revisiting human rights for international students in Australia**

Australia is one of the first countries to bring the international student human rights framework into the forefront of the human rights and public policy agenda. Australia is also the first country to have experienced an international student revolt in 2009, hence bringing about a human rights approach to international student education in Australia is an ongoing priority. On 4<sup>th</sup> October 2012 the Australian Human Rights Commission (AHRC) issued a policy document entitled *Principles to Promote and Protect the Human Rights of International Students*. Along with other colleagues, we advocated the inclusion of various aspects of the *Racial Discrimination Act 1975* into this document. In doing so, the AHRC has affirmed that ‘Everyone is entitled to their human rights without discrimination’ (AHRC, 2012, 9). International students are now able to access their rights through the *Racial Discrimination Act* irrespective of their visa status. In 2014, a review of the impact of the principles was conducted; the AHRC published the impact statement in January 2015. This review is timely for inclusion and discussion in this paper.

When introducing the *Principles to Promote and Protect the Human Rights of International Students*, the Race Discrimination Commissioner declared that:

Australia has a responsibility to protect the human rights of everyone in the country, which includes international students. This responsibility comes from a number of international human rights treaties that Australia has agreed to uphold. Some international students also experience discrimination, exploitation, or harassment because of their race, colour, culture, religion, language or sex. This can happen in their dealings with, amongst others, health providers, migration agents, real estate agents and employers. In many instances, international students are not aware of their human rights, how their rights are protected under Australian law and what options exist for them to take action when their rights are breached (AHRC, Helen Szoke, Race Discrimination Commissioner, 2012, p. 3).

The *Principles* promotes equality and non-discrimination by establishing four operational frameworks.

1. ***Enhancing the Human Rights of International Students*** – covers equal access to health, accommodation, safe and affordable public transport, crisis-management and support opportunities for issues arising in the home country of the students.
2. ***Ensuring all international students have access to human rights and freedom from discrimination*** – includes information on the complaint process, governing bodies, tenancy rights and responsibilities, and access to appropriate legal advice.

3. ***Understanding the diverse needs of international students*** – involves ethical research with international students to develop appropriate and responsive policy, research focusing on the narratives of international students’ experience of discrimination and racially motivated crime, and publicly reporting on how information about the numbers and causes of international student deaths is being utilised to ensure the safety and well-being of international students.
4. ***Empowering international students during their stay in Australia*** – recommends engaging with international students and various stakeholders to improve study outcomes, using social media portals and websites such as ‘Study in Australia’ for presenting information on resources and services, creating awareness about sexual health and well-being, increasing cultural competency, and establishing ongoing engagement opportunities between international students and mainstream local communities.

Several areas identified in Sections 6.3 and 6.4 of our previous report have now been interwoven into this in-depth policy document. In particular, the aspect of developing a strong research base about cultural diversity and racism (Jakubowicz and Monani, 2010, p. 21) has now been addressed through the third human rights principle.

Reading the current human rights issues facing international students in Australia today, ‘racism and racial discrimination’ emerges as one of the top three human rights issues alongside employment and accommodation. In particular, Indian, Sri Lankan and Nepalese students used the AHRC platform to make formal race-related complaints (AHRC, 2015, p.10). It is clear that the mechanism of a complaints process through the AHRC has now revealed that extent, nature and ethnic backgrounds of the international students. Prior to the AHRC principles in action there was no real way of knowing and managing data on the international student community. Hence a fully informed evidence-based approach is now being utilised by the AHRC which will ultimately impact the way in which international students are supported in Australia.

The *Principles* has helped to deal with the complexity of the relationship between the state (Australia) and the international student as a potential international aid recipient, citizen, consumer and exporter. Marginson interviewed students about their hostile information exchanges with immigration authorities, involving significant delays on extension of student

visas, administrative inefficiency and inconsistent and incorrect advice (Marginson, 2012, p. 505). The main intention of the *Principles* has been to assist students by ensuring that they have the right to take action where they have experienced profound distress.

Racially based exclusion was a key dimension of foreign and immigration policy until the 1970s, and the residues of a racialised worldview remain prevalent in some parts of Australian society. In Section 2.1 of our report, dealing with the Colombo Plan and the end of White Australia in the 1950s, we provide an overview of the invitation extended to international students in Australia. The end of White Australia occurred in a series of steps. In 1958 the old dictation test was removed and in 1965 the residency requirement for Asians to apply for citizenship was reduced. In 1966 Australia signed the *International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)*, and in 1967 Australians voted to include Indigenous people as full citizens and assign responsibility for their wellbeing to the Commonwealth. By 1973 the racial preferences contained in the *Migration Act* were removed. In 1976 the *Racial Discrimination Act* outlawed (but did not make criminal) discrimination on the basis of race, reflecting both the ICERD implementation and the Australian reservation, which rejected the criminalisation of either discrimination or hate speech. This reservation continues to affect policy and government and police capacities to prosecute racism. The UN CERD Committee expressed serious concern about this continuing reservation during the Australian Government appearance before it in August 2010. Despite this, the sequence of both international and national acts, often extended by state-based legislation, cemented into policy discourse the recognition that the racialised worldview of White Australia, with its implicit hierarchies of colour and unchangeable barriers of cultural difference, was no longer acceptable. Australia was becoming a country that acknowledged a racist past, but was now intent on building a non-racist egalitarian future (Jakubowicz 1997/2010, as cited in Jakubowicz and Monani, 2010, p. 6). The *Principles* (AHRC, 2012) is now another successful milestone in these series of initiatives.

The *Principles* clarifies that international student rights are not linked to the visa status of the student. In our 2010 report, we argued for a national compact between students, institutions and government that could require sign on, performance and review. The main premise of the AHRC is to work in collaboration with several stakeholders responsible for addressing the issues and concerns faced by international students. The *Principles* offers a national compact model that consults, engages and reviews student needs on an ongoing basis along with the

students and a number of stakeholders (AHRC, 2012, p. 14). More importantly, the AHRC is currently struggling to ‘elevate the importance of principles to people overseas such as education agents’, and much of their work in the area of wide adoption of the principles by universities has remained largely stagnant (AHRC, 2015).

According to Nyland *et al.* (2013), the efficacy of the Overseas Student Ombudsman (OSO) remains doubtful. The OSO has refused to critically evaluate the international education industry (Nyland, *et al.*, 2013, p. 26). Unlike the OSO, the AHRC provided scholars and stakeholders with a platform to bridge the gap with international students. The AHRC engagement strategy was a multi-tiered and collaborative approach. It did not shy away from acknowledging and accepting the flawed export education market and the humiliation that its victims experienced. Marginson (2012) points out that international students are systematically excluded from entitlements available to local students, such as subsidised transport, free medical care, student loans, and higher degree scholarships. Indeed there are no minimum benchmarks in relation to service quality, either for local or for international students. Thus international students pay more for the same education than local students and are more vulnerable to under-provision (Marginson, 2012, p. 503).

Universities and colleges need to engage with local radio to develop programming that can respond to international student issues. One example of good practice is 2SER Radio, which is a joint initiative between the University of Technology Sydney and Macquarie University. At the start of the student protests in Melbourne, one of the authors of this paper, Devaki Monani, launched ‘Humaari Awaarz’ (Our Voice) in Hindi on the not-for-profit, community radio station 3CR. This program covered topics of racism amongst Indian and Australian cricketers in Melbourne, as well as the student protests, and gave representation to the voices of many Indians in Melbourne. Unfortunately, once the producer relocated, the show could not be continued, because Indian students with limited resources did not have the time or financial support to carry it forward. Programs like this have great potential for Indian students as they give them the opportunity to express themselves in a non-judgemental environment with a pure, not for profit intent. They can add to the stream of shows supported by the Special Community Broadcasting Service (SBS)<sup>7</sup>.

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<sup>7</sup> There has recently been an increase in everyday Hindi radio live streaming of Indi Pop Bollywood music and news from India through SBS, Pop Desi (SBS, 2013). However, SBS Hindi radio programming only reports on local news and brings music from home to listeners in Australia. What continues to remain absent is an Indian

In addition to radio content development, we also argued in our 2010 report for local Facebook and Twitter sites to become ways of building community, developing networks and keeping information flowing. The AHRC has now implemented this recommendation in its fourth principle of ‘Empowering international students during their stay in Australia by using social media’ as a key component of information sharing and promotion. This move is particularly appropriate for engaging with youth as it provides a more interactive platform for students to give feedback on the information they have received.

The AHRC have currently not considered working with broadcast media. In our previous report we recommended a reality TV show on international students that follows them across the world, explores their experiences, and tracks their fights against scams and exploitation, as well as showing them enjoying the benefits of international education. We would like to see this production take place with a rights focus, and see a commercial channel or an international production house taking this plan forward. Hopefully, this show would do more than show Indians how ‘dumb, drunk and racist’ Australians are considered (see the ABC show, 2012). Ideally it would reflect the marginalisation of international students and challenge bureaucracy and corruption in relation to higher education opportunities for international students. The movement behind the *Principles* is still in its infancy. However, it is bringing us closer to achieving a more humane understanding of engaging with international students.

## **Conclusion**

International students remain a whole-of-society challenge, because they not only generate a whole-of-society benefit, but also reflect an intense vulnerability. They often carry a burden of expectation and emotional and financial investment from family that renders them wary of testing the capacity of the Australian justice and human rights system to protect them. So while there are some representative bodies that can articulate their situations, often, individual students have little if any contact with them, while experiencing a deep reluctance to use them. The dynamic around the human rights of students illuminates the critical importance of the institutions of state and civil society recognising and reflecting their

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radio program that offers critical perspectives about the issues faced by Indian migrants to Australia, particularly the more recent and ongoing arrivals of international students.



specific circumstances and needs, and ensuring that the structures that citizens may take for granted are in fact pro-active in ensuring the rights of student sojourners.

Policy determination requires open conversations, stakeholder engagement and social change policies. Australian governments need to ensure that international students continue to experience opportunities in Australian society as active participants in learning and social interaction. Given Australia's history, whole-of-government, cross-society, collaborative action can ensure optimum outcomes for Australia, specific stakeholders, and the students themselves. The *Principles* and the commitment reflected by the AHRC and individual scholars are designed to bring this about. Brand Australia in international student markets will need to reflect quality, diversity, justice and rights, not just 'fun in the sun' or a ticket to play and stay (Jakubowicz, 2010).

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