

Volume 5 Number 2 2010

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ADRIAN KAY RICHARD ECCLESTON	The Evolution of Labor's Health Reform Agenda
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# Public Policy

## Published by:

The John Curtin Institute of Public Policy  
Curtin University

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ISSN 1833-2110

Designed and printed by

GEON print & communication solutions

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# Constitutional Amendment and Policy-Making through the Citizen-Initiated Referendum\*



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With control over the Constitutional amendment procedure held tightly in the hands of the prime minister and a record of very few successful referendums in Australia, the idea of opening up the process by introduction of the citizen-initiated referendum presents itself. This paper considers two implications of CIR in particular — its tendency to conflate constitutional law and ordinary law; and its encouragement of a ‘tyranny of the majority’. The paper concludes that any experiment with such a questionably democratic device should occur at the State rather than national level, and that important procedural safeguards be applied.

Commentators regularly bemoan the immutability of the Commonwealth Constitution.<sup>1</sup> Constitutional reform is made virtually impossible, a range of critics suggest, by a demanding amendment procedure that requires any proposed alteration to be submitted to the people in a national referendum where it must receive both a majority of the overall vote and a majority of votes in a majority of States. Only 8 of 44 proposals have met that test in the entire 11 decades since Federation — equating to a rather derisory 18 per cent ‘success’ rate. It is, though, a very high success rate compared with some countries. To take one not-very-obscure example, the United States has managed only 27 amendments to its Constitution — indeed, only 17 if one discounts the original ten of 1792 that were part of the ratification settlement — from an estimated 10,000 proposals put to Congress in the 222 years since ratification (Bernstein and Angel 1993:169). At 0.27 per cent, that is a meagre success rate indeed — making 18 per cent look positively extravagant. Perhaps 18 per cent seems low to some people because they are unconsciously benchmarking it against the standard democratic rule of 50% +1. On that standard, 18 per cent is well short of a passing grade. But, to borrow Justice Marshall’s famous declaration ‘it is a *constitution* we are expounding’ here,<sup>2</sup> and the standard is hardly relevant. Constitutions have a special character as fundamental rather than ordinary law, with permanence as one of their distinguishing features. Permanence does not entail ossification, but it does imply a much a more stringent test for alteration. Nonetheless, a good case could be made that over more than a century of enormous technological, economic, social and international change greater facility for amendment would be desirable. This paper provides a very brief introduction to the proposition that existing referendum requirements be radically expanded to allow citizens to initiate change. On the face of it, this is a highly democratic proposal — a form of ‘direct democracy’ that might address increasing concerns about public disenchantment with the familiar processes

\* Original version presented to the seminar *Changing Constitutions: referenda*, jointly held by the Australian Association of Constitutional Law and the Constitutional Centre of Western Australia, West Perth, 16 October 2010.

<sup>1</sup> As Williams and Hume (2010:238) do most recently. Geoffrey Sawer (1967:208) most famously did with his parting shot describing Australia as constitutionally ‘the frozen continent’.

<sup>2</sup> *McCulloch v. Maryland* 17 U.S. 316 (1819).

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of representative government (LeDuc 2003:19–20). However, the paper finds that the Citizen-Initiated Referendum (CIR) device has implications for the relationship between fundamental and ordinary law, or rules and policy, and a highly ambiguous relationship to democracy that weigh against anything but the most cautious and limited experimentation.

## Constitutional failure and remedy?

The closing section of the Commonwealth Constitution, s.128, requires any alteration to conform to the specified procedure where parliament submits a proposal to the voters in a nationwide referendum. It must receive the support of both a nationwide majority (simple) and a majority of voters in a majority of States (two thirds on existing numbers). There have been 18 referendums since Federation comprising 44 proposals, or referenda. The most recent attempt to amend the Constitution was the ‘republic referendum’ of 1999 where two questions were put to the people, neither receiving even a national majority let alone a majority in a majority of States. Five referenda have been defeated despite receiving a national majority (having fallen at the federalism hurdle), but that still leaves 31 of the 44 that failed both tests — including the previous referendum in 1988 where all four proposals were comprehensively rejected.

## Explanations

It is an oft-repeated truism that proposals fail at referendum so frequently because they do not get the bipartisan support that evidence suggests is required. But partisanship is what politics is all about and it scarcely needs saying that constitutions are political. To say that partisanship is the problem is to say very little, as is reference to a putative conservatism among Australian voters. Applying Ockham’s razor, we might simply conclude that the rather lame record simply illustrates the triumph of good sense over bad proposals (Galligan 1999; 2001; Miles 1999). And of course, that immediately raises the question of what is it about the process that leads to so many bad proposals and, presumably, so few good ones? No less obvious than the question is the answer: an amendment procedure that excludes any means other than proposal by the federal parliament. In a parliamentary system such as Australia’s, to grant the legislature that power is to create a very tight monopoly over the process — in effect to assign control to the prime minister. In this regard, the Commonwealth Constitution’s Section 128 was a surprisingly flawed piece of constitutional design, particularly from a group of colonial politicians who had, in the largest part, little desire to tilt the playing field in favour of the Commonwealth government. To be fair, the framers did not have a wide range of existing examples from which to draw inspiration. The Americans had invented amendment procedures with the U.S. Constitution’s Article V, but the Canadians had sidestepped the issue (and thereby created a larger one) by doing without an amendment procedure for their Constitution at all.<sup>3</sup>

## The CIR alternative

Obligatory referendums for constitutional change are a long established and widely practised technique for constitutional constraint — going back at least to the adoption of the world’s oldest constitution, the Constitution of the Commonwealth of Massachusetts, in 1780. Somewhat newer and less widely practised is the more radical notion of allowing the people to initiate proposals themselves, first employed in late-nineteenth century Switzerland. Such

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<sup>3</sup> Finally rectified in 1982 when the *British North America Act* of 1867 was ‘patriated’ as the *Constitution Act, 1867*.

a move would certainly end the prime minister's monopoly over the process. While Australia prides itself on having been an international pioneer in regard to its early development of democratic rights and its adoption of the popular referendum for constitutional amendment, it falls well short of some other jurisdictions in respect of the people's direct role in making law. Switzerland most famously and most importantly makes regular use of citizen initiative as well as, like Australia, requiring any government-initiated constitutional change to be approved by referendum. In the US, half of all the States also employ the initiative, with South Dakota having led the way in 1898 and California adopting it in 1911.

Australia has an extensive history of interest in CIR but as yet no attempts to introduce it have been successful (Williams and Chin 2000). Whether Australian democracy and constitutional practice would benefit from introduction of this form of 'direct democracy' is an issue around which debate has sharply polarised. In considering this question, this paper distinguishes between so-called 'advisory referendums' — sometimes called 'plebiscites' — where the results are not binding, and mandatory referendums proper where the results are binding on government.<sup>4</sup> Advisory referendums are a widespread if not necessarily frequent practice and Australia has had its share at both national and State level. Western Australia is particularly prominent in this regard, having held its constitutionally meaningless but nonetheless notable referendum on secession in 1933 (66 per cent in favour) and more recent referendums on such mundane policy matters as daylight saving and shop trading hours. There is a persuasive argument that such opportunistic referendums subvert rather than enhance democratic practice in a system of representative government (e.g., Rahat 2009; Setälä 2006) but advisory referendums are not the concern of this paper.<sup>5</sup> The two defining principles of the referendum device this paper concerns itself with are: 1) that they are initiated by popular petition; and 2) that they are binding on government.

There is also distinction to be made between levels of government and types of law: CIR can be used at local, State or national level and it may be used for constitutional or statute law. At the national level in Switzerland citizens can initiate a referendum to amend the constitution,<sup>6</sup> a provision that was adopted by referendum in 1891. The same does not apply, however, to ordinary law. As far as statute law is concerned, citizens have constitutional power to demand a referendum on any existing Act if they can submit a petition with the required number of signatures within 100 days of 'official publication' but they cannot initiate legislation.<sup>7</sup> Direct democracy at the level of cantons and commune (municipal) level antedates the national provision, and there Swiss voters can typically initiate either constitutional amendment or ordinary law. In some American States, citizens can initiate changes to the State Constitution as well as to statute law while, in others, use of the initiative is restricted to statute law. At the national level in the United States, neither option is available. Indeed, no referendum of any sort has ever been held at a national level in the United States and Magleby (1995:42) describes the United States as being "one of only five democracies which has never held a national referendum".

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<sup>4</sup> See LeDuc (2003:39) for a detailed typology.

<sup>5</sup> And in Australia there is, additionally, the absurdity of compulsory voting in non-binding advisory referendums.

<sup>6</sup> *Constitution of the Swiss Confederation*, Arts. 138 & 139.

<sup>7</sup> Art. 141.

Although not often noted, Australia can look to one example much closer to home: in 1993, New Zealand legislated for the Citizen Initiated Referendum. It was, though, a peculiar half-measure. As one of the very few remaining liberal democracies lacking a codified constitution and thus enjoying full parliamentary sovereignty, New Zealand not surprisingly chose to be the one country to adopt the advisory CIR (Parkinson 2001).

The following discussion considers two implications of adopting CIR: the relationship between fundamental and ordinary law, and the question of how democratic a device it is.

### **Conflating fundamental and ordinary law**

Underlying the practice of liberal-democratic constitutionalism is the assumption of a hierarchy of laws: the 'ordinary law' of governments is legitimate by virtue of being produced in accordance with a 'higher law', fundamental or constitutional law. Fundamental law provides the framework of rules regulating the operation of the political system while ordinary law is the vehicle through which governments of the day give expression to policy. By making it impossible for governments to engage in unilateral constitutional amendment, s.128 gives the Commonwealth Constitution the clear status of fundamental law. This distinction is tested by CIR.

In those rare cases where the initiative operates with respect to constitutional law but not statute law, as is the case at the national level in Switzerland, the tendency is to turn sub-constitutional matters into constitutional ones. Citizens wanting to take the law into their own hands are naturally led to make whatever concern they have a constitutional concern. The 2009 initiative to prohibit minarets in Switzerland, for instance, inserted a clause into the federal Constitution.<sup>8</sup> The practical distinction between fundamental law and ordinary law is thus blurred and the Constitution takes on a rather promiscuous character. Section 118a of the Swiss Constitution, inserted by CIR for instance, requires that "The Federation and the Cantons...ensure that consideration is given to complementary medicine". Switzerland is highly unusual, if not unique, in providing for constitutional but not legislative initiative. The rarity of this approach and its obviously inflationary impact on the Constitution means that it is difficult to contemplate introduction of a CIR option for constitutional change in Australia without also introducing it for statute law.

That means discussion of the merits of CIR as a constitutional tool cannot be separated from discussion of the merits of CIR as a law-making tool more broadly. The distinction between fundamental law and ordinary law is also blurred, however, when the initiative is available for both. In those instances, any statutory change effected through the initiative is often protected from repeal or amendment by the referendum requirement; it is a type of superior law. In addition, because any group with sufficient motivation to collect the required number of signatures and run a state-wide campaign is likely to have a high level of commitment, confronted with the choice between legislative and constitutional impact they will naturally be drawn to the latter, more fundamental mode of enshrining their pet project. We would expect this to be particularly the case where legislative initiatives can be amended or repealed by the legislature. Magleby (1995:13) reports that this is the situation in most US cases and

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<sup>8</sup> On 29 November 2009, the Swiss approved a citizen-initiated proposition to amend Article 72 of the Constitution by inserting a paragraph 3 that reads "The construction of minarets is prohibited".

predictably “Initiative sponsors in states that provide both the constitutional and statutory initiative will often submit their measure as a constitutional initiative because of its ‘more secure’ legal standing”. One deliberate deterrent to this kind of opportunism is to make the nominating threshold higher for constitutional proposals. Illustrative is California, where nominations must garner signatures of 5 per cent of the total votes cast in the previous gubernatorial election for statutory propositions and 8 per cent for constitutional ones.<sup>9</sup> However, there is little incentive to constitutionalise in California since the Constitution, sec.10(c), permits legislative amendment or repeal of an initiative only if the initiative so allows or if approved by the voters in a referendum.

There is a natural tendency under such circumstances, then, for referendums to beget referendums. In California, the ballot papers bulge with propositions being put not by the people, but by the legislature for the simple fact that once a proposition has been adopted as law, any action by the legislature to repeal or amend must also be approved in referendum. In 1990, the explanatory pamphlet for voters in California was a self-defeating 224 pages long — largely as a consequence of the number of amendments being sought by the legislature (Magleby 1995:33).

### **How democratic is direct democracy?**

The biggest question though must be what sort of policy it generates. One way to frame an answer to that question is to take an historical perspective. The Swiss referendum and subsequently the initiative as well, were closely linked to its process of democratisation in the 19th century (Fossedal 2001:87–90). Similarly, in the U.S., the Initiative and Referendum, along with the Recall, date back to the heyday of democratic progressivism in the early period of modern democracy in the late nineteenth and early twentieth centuries (Goebel 2007). Most U.S. States that adopted CIR did so, for instance, in the years 1898 to 1918 (Magleby 1995:27; 2001). In this period, more democratic procedures typically meant more democratic outcomes. The majority was seeking greater influence over a political process that was heavily controlled by business elites and strongly resisted political, social and economic reform. Working class political parties typically supported these measures, and indeed CIR was on the platform of the Australian Labor Party until the mid-1960s. In Western Australia, the Scadden Labor government introduced an initiative and referendum Act in 1913. It was passed by the Labor-controlled Legislative Assembly but rejected by the Legislative Council where, of course, Labor did not have the numbers.<sup>10</sup> Typical of the reforms sought in this period in the United States was women’s suffrage, which, in four States, was introduced through CIR. CIR went into abeyance through mid-century and when it returned, it did so with a new set of friends.

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<sup>9</sup> ARTICLE 2: VOTING, INITIATIVE AND REFERENDUM, AND RECALL SEC. 8. (a) The initiative is the power of the electors to propose statutes and amendments to the Constitution and to adopt or reject them.

(b) An initiative measure may be proposed by presenting to the Secretary of State a petition that sets forth the text of the proposed statute or amendment to the Constitution and is certified to have been signed by electors equal in number to 5 percent in the case of a statute, and 8 percent in the case of an amendment to the Constitution, of the votes for all candidates for Governor at the last gubernatorial election.

<sup>10</sup> Australian experiences are outlined in Williams and Chin (2000).

Today, the relationship between CIR and democracy has reversed. More democratic procedures, in this sense, means less-democratic outcomes and the proponents of CIR are more likely — with some notable exceptions — to be from the political right, much less concerned about traditional democratic values and more concerned about reining in the democratic tendencies of ‘elites’ (e.g., Walker 1987). According to Magleby (1995), the initiative process in America rarely gives voice to the disadvantaged. “Absent from the initiative are issues of concern to the poor, the less educated, and those who lack political organization or financial resources. Instead, issues tend to reflect the concerns of ideological or reform groups that have been unsuccessful in getting their way with the legislature”. Whether the initiative process is dominated by money is unclear (Smith 1998; *cf.* Gerber 1999).

### CIR and Minority Rights

A comprehensive study published in 1997 examined every one of the initiatives put on the ballot paper across the American States between 1959 and 1993 that concerned matters of civil rights (Gamble 1997). There were 74 initiatives in total over this period, and all but six sought to reduce the rights of disadvantaged minorities. Those 68 proposals seeking to disadvantage minorities enjoyed a success rate of 78 per cent; now *that* is a passing grade — indeed a distinction. To put that in context, at 33 per cent, the success rate overall for initiatives in this period was substantially less than half of that figure. As if to confirm that analysis, California voters approved Proposition 187 in 1994 denying public education and social services to the State’s many illegal (Hispanic) immigrants. Similarly, it seems clear that the availability of CIR is the key variable distinguishing States that have adopted constitutional provisions banning same sex marriage and those that haven’t (Lupia *et al.* 2010).<sup>11</sup>

This might be dismissed as more reflective of the peculiarities of American political culture, rather than the inherent dangers of direct democracy. However, the 57 per cent support in July 2008 for the constitutional initiative to prohibit minarets in Switzerland — now Article 72(3) of the Swiss Constitution, “The building of minarets is prohibited” — might suggest otherwise. So also might the 53 per cent support among Swiss voters for the constitutional initiative for mandatory deportation of “criminal foreigners” in November 2010. New Zealand’s CIR was the consolation prize for groups who had lost in their campaign to oppose the legalisation of homosexuality and who were supported by groups “opposed to the redress of Maori grievances” (Parkinson 2001:408). While neither of these examples comes near the American States for oppressive majoritarianism, they do suggest there is a broader tendency at work. Perhaps James Madison’s was right to insist on a very indirect and limited, or republican, style of democracy where populist passions would be filtered through a complex set of layered political institutions. It is also one of the reasons why there is an inverse correlation between how informed citizens are and how much they support the use of referendum techniques (Anderson and Goodyear-Grant 2010).<sup>12</sup>

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<sup>11</sup> By showing that there is no underlying pattern of variation in preferences, the study demonstrates that the policy variation is not an instance of federalism allowing local communities to express local policy tastes.

<sup>12</sup> The other reason being a greater confidence in the efficacy of government.

One consequence of the fact that initiative operates at the State level in America and gets widely used in a highly 'populist' manner is that a large number of those that get approved by the voters subsequently get struck down by the Courts as either exceeding the constitutional authority of the State vis-à-vis Congress, or as contravening one or more of the rights guaranteed in various of the Amendments to the US Constitution. Of all the Propositions adopted in California from 1960 to 1980, only two "were not declared unconstitutional in whole or in part by state or federal courts" (Magleby 1995:40). This, of course, places the courts in direct opposition to the explicitly declared will of the majority of voters — an invidious position for the judiciary in a democratic society (Miller 2009).

### **CIR and Fiscal Policy**

No event has generated as much attention for CIR as California's Proposition 13 of 1978, which amended the State Constitution to include in s.13a the requirement that "The maximum amount of any *ad valorem* tax on real property shall not exceed one percent (1%) of the full cash value of such property". For critics, this has been a prime example of the disastrous way CIR allows voters to impose policy limitations in isolation from broader policy concerns, fundamentally undermining in this case the quality of public provision (Schrag 2006). Similarly, direct democracy has been a strong contributor to fiscal conservatism in Switzerland. However, while ensuring that Switzerland remained a low-taxing society with a relatively small welfare state, CIR there seems to have also supported the kind of strong government role in developing productive infrastructure that has helped make the country such an economic success story (Fossedal 2001:102–4).

## Conclusion

There is broad consensus that the use of referendums and the practice of CIR is on the rise and that these forms of 'direct democracy' can be seen as one response to the apparently endemic disenchantment with representative government in liberal democracies (LeDuc 2003; Mendelsohn and Parkin 2001). It would also seem to be the case that where CIR is practised, voters like it (Haskell 2000:148). CIR certainly has its thoughtful proponents (e.g., Barber 1984; Budge 1996; Matsusaka 2004; 2005; Saward 1998). It also has abundant critics (e.g., Broder 2000; Ellis 2002; Haskell 2000; Schrag 2006). What does seem clear is that in its effect, CIR has gone from being a device a century ago through which politics was democratised to now being a populist device bearing shades of the tyranny of the majority. However, it must be said that this is much more the case in the American States than it is in Switzerland, where direct democracy is more deeply entrenched in political culture and functions as a complementary component of a highly successful system of representative government (Kriesi and Trechsel 2008; Linder 2010; Sager and Bühmann 2009).

If the Swiss and American experiences are anything to go by, this form of direct democracy is a bottom-up affair rather than something that one could sensibly contemplate introducing at the national level. In Switzerland, direct democracy is practised to greater extent the closer one is to the local community. Cantonal direct democracy is stronger than national, and the more traditional communes have a history of the most democratic practice of all in their *landsgemeinden* or local community assemblies. In the United States, CIR is exclusively a State and local procedure. This suggests that if Australia was going to experiment with direct democracy of this nature it would be best to begin by doing so at the State level, with the State constitutions. This is precisely the kind of experimentation that a federal system of government should allow us to engage in (Fenna 2010).

Regardless of the level at which it is practised, a great deal depends on how it is practised. As well as the issues raised above, there is also the general concern that making political and constitutional decisions through referendum militates strongly against a democratic process of deliberative consensus building (Chambers 2001; Clark 1998; Setälä 2006). This suggests that any experimentation with CIR should be of a well-regulated type (Barber 1984; Cronin 1999), where thresholds are high; number of referenda is strictly limited; eligible matters are sub-constitutional only; and no capacity to entrench through controls on amendment or repeal is available.

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# The Evolution of Labor's Health Reform Agenda: A Preliminary Assessment



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One of the most prominent and popular commitments made during the 2007 federal election was the Labor Party's pledge to 'end the blame game' afflicting Australian federalism and to reform Australia's health system to meet demands of the 21st century. By early 2010 Labor's campaign commitment gave rise to the proposed National Health and Hospital Network which has now been superseded by an alternative national health reform package which won the preliminary support of State and Territory Premiers and Chief Ministers at a February 2011 Council of Australian Government (COAG) meeting. Given these developments this paper analyses the original NHHN proposal with a particular emphasis on evaluating its financial viability and whether it was likely to improve the efficiency of Australia's health system. The paper concludes with a preliminary assessment of the 'Gillard Model' and the likely implications of its alternative funding model.

The Rudd Government will be remembered for failing to deliver an ambitious reform agenda spanning from climate change policy to tax reform and a host of varied proposals in between. One of the most prominent and popular commitments made during the 2007 federal election was the Labor Party's pledge to 'end the blame game' afflicting Australian federalism and to reform Australia's health system to meet demands of the 21st century (Roxon 2007; Watson and Browne 2008). Labor's campaign commitment gave rise to the proposed National Health and Hospital Network (NHHN) as articulated in the *Federal Financial Relations Amendment (National Health and Hospitals Network) Bill 2010* introduced just prior to the 2010 federal election.

Despite NHHN legislation being reintroduced to the Senate in October 2010 Prime Minister Julia Gillard has since developed an alternative national health reform package (the 'Gillard Model' henceforth) which won the preliminary support of State and Territory Premiers and Chief Ministers at a February 2011 Council of Australian Government (COAG) meeting. Given these developments the majority of this paper is devoted to an analysis of the original NHHN proposal with a particular emphasis on evaluating its financial viability and whether it was likely to improve the efficiency of Australia's health system. The paper concludes with a preliminary assessment of the Gillard Model and the likely implications of its alternative funding model.

The original NHHN was a complex model with a number of interrelated dimensions. This paper aims to present a preliminary analysis of its three most significant elements:

- 1) Its financial viability – Would the proposed network have met the likely short term cost of funding Australia's public hospital system? Would the proposed network have altered the funding balance between the Commonwealth and States in relation to the public hospital system?
- 2) Would the proposed network have reduced demand for health services in Australia?
- 3) Would the proposed network have improved the efficiency of the supply of health services in Australia?

### **Context for Reform**

The cost of health care provision is increasing in real terms across all Organization for Economic Cooperation and Development (OECD) economies and the impact of health inflation on public finances represents a major policy challenge in all advanced democracies (OECD 2010). This broad trend is also clearly evident in Australia with total health expenditure as a proportion of GDP increasing from 6.3% in 1981-82 to 9.0% in 2008-09 (AIHW 2010: ix). The financial challenge associated with funding public hospital services is particularly acute in the context of Australian intergovernmental financial relations, because State and Territory governments (henceforth 'States'), with their small and declining revenue base, have primary responsibility for the funding and management of the public hospital system – the area of government expenditure subject to the greatest cost pressures (Banks 2008; Eccleston 2008). The historical response to Australia's vertical fiscal imbalance in the context of public hospital funding has been for the Commonwealth to provide Special Purpose Payments (SPPs) to the States under the auspices of Australian Health Care Agreements and, more recently, the National Healthcare Agreement (NHCA) SPP. Whilst SPPs have underpinned the financial viability of Australia's public hospital system (contributing \$14.7 billion in 2010-11) the regime has been subject to a number of related criticisms.

First, in practice health SPPs negotiated under NHCA have not kept pace with the rate of health inflation. As a consequence (and given their constitutional responsibility for the management of public hospitals) the States have been forced to increase their direct contribution to public hospital funding from 48.4 % in 1998-99 to 51.2% in 2008-09, while the Commonwealth's contribution has decreased from 44.3% to 39.2% over the same period (AIHW 2010: 10). The balance has been provided from private sources. This trend has served as a catalyst for the current debate about the financial sustainability of Australia's public hospital system (Roxon 2007).

At a political level, the relative decline of Commonwealth funding for public hospitals combined with concerns about the quality and availability of public hospital care have served to increase intergovernmental debate in relation to health policy and management within Australia (Parkin and Anderson 2007: 304-05). The central objective of the NHHN has been to end this 'blame game' between the Commonwealth and States in the health care arena.

Finally, inefficiencies in health care provision in Australia have been exacerbated by the historic division of responsibility between the Commonwealth and the States for different elements of the health system, such as primary, hospital, aged and mental health care services (Swerissen

and Duckett 2008). The NHHN and the Gillard Model have a common ambition of improving the integration of health care delivery in Australia which may improve the overall efficiency of the national health system, although critics argue that established program divisions between primary health, public hospital, private insurance and pharmaceutical funding are likely to remain.<sup>1</sup>

### **Macro-Financial Analysis: The financial viability of the original NHHN**

The intergovernmental accountability issues which have afflicted Australian health policy in recent decades have both governance and financial dimensions. For example who has effective control over and responsibility for the provision of health services? And who funds the provision of health services?

The analysis which follows explores the macro financial implications of the NHHN by providing some indicative projections as to whether the proposed NHHN would have been adequately funded in the short term. This analysis aims to establish the extent to which the original model would have provided financial relief to the States and whether Premiers were justified in their concern about relinquishing as much as 30% of GST revenue to fund the NHHN.

By way of caveats, this analysis of the likely impact of the NHHN is based on the extrapolation of recently published Australian Institute of Health and Welfare data (AIHW 2010) on public hospital expenditure as well as Commonwealth Budget data (Treasury 2010) on projected Commonwealth health funding and GST revenues. As a baseline, the analysis assumes expenditure growth on public hospitals will continue at a nominal rate of 9.5% per annum (the trend rate 2004-09, AIHW 2009: 117). If the NHHN model was able to deliver more cost effective health services then these expenditure projections may be too pessimistic. However, in the absence of firm data on possible cost savings we believe it is prudent to assume the historical rate of cost inflation. While we recognise the proposed NHHN had the ambition of funding the provision of health services beyond those delivered to public patients in public hospitals, it is first important to establish whether the proposed regime would have been likely to meet 60% of the anticipated non-private costs of running Australia's public hospital system. The projections assume that the States' contributions to the new funding pool would have been in accordance with the figures published in the Commonwealth's Mid-Year Economic and Fiscal Outlook (Treasury 2010). Finally, the accuracy of financial projections in relation to either model is also limited by uncertainty surrounding how the proposed funding model will work in practice such as the determination of 'efficient prices' for hospital treatments and training costs. Despite these qualifications, it is possible to make some tentative conclusions in relation to two threshold questions:

- 1) Would the Commonwealth's forecast contributions to the NHHN (as outlined in the forward estimates in Treasury's 010 Mid-Year Economic and Financial Outlook) have met the likely cost of funding Australia's public hospital system? and
- 2) Would the proposed model have reduced the States' financial commitment to funding Australia's public hospital system in relative terms?

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<sup>1</sup> We would like to thank one of the Journal's anonymous reviewers for making this point.

Table 1: Short-Run Financial Consequences of Original NHHN Proposal, billions

Year	(A) Projected GST Revenue	(B) GST Relin- quished by States to fund NHHN	(C) Non- GST C'wealth Contri- bution	(D) Effective C'wealth Contri- bution to NHHN funding pool (B+C)	(E) Projected Public Cost of Public Hospitals (less private contri- butions)	(F) % of cost (E) to be met by C'wealth (D)	(G) C'wealth Funding 'Surplus' to 60% commit- ment (D-.6*E)	(H) Antici- pated residual cost to States (E-D)	(I) Total cost to States (B+H)
2010-11	47.0	NA	14.7	NA	36.9	NA	NA	NA	NA
2011-12	50.0	13.6	15.1	28.7	40.4	71.0%	4.5	11.7	25.3
2012-13	53.0	14.8	15.9	30.7	44.2	69.5%	4.2	13.5	28.3
2013-14	56.2	16.0	16.5	32.5	48.4	67.1%	3.5	15.9	31.9
% Average Growth nominal	6.6%	8.8%	4.6%	6.6%	9.5%	NA	NA	17.9	13.0

Source: AIHW (2010), Treasury (2010a).

Note: The data assumes a constant rate of health inflation and excludes 'one-off' Commonwealth transfers not included in forward estimates.

### Funding Adequacy

The data (Columns F and G) presented in Table 1 suggest that short term Commonwealth contributions to the original NHHN would have met 60% of the forecast cost of funding Australia's public hospital system with a surplus of between \$4.5 (2011-12) billion and \$3.5 (2013-14) billion. However this 'Surplus' funding pool was modest given the Commonwealth's ambition to increase funding for primary, aged and mental healthcare. To this extent we concur with John Deeble's analysis that the original network would have struggled to maintain the funding status quo (Metherell 2010). Clearly the viability of the regime would have been critically dependent on *ad hoc* funding (such as the \$7.3 billion 'top up' funding from the Commonwealth promised in the 2010 Budget (Swan 2010)), and the undertaking that no State would have been made worse off. Of greater significance is the fact the Commonwealth funding surplus would have decreased over the period of the Commonwealth forward estimates (Column G). This is a consequence of public hospital health inflation (9.5%) rising more quickly than GST revenue growth (6.6%). Under these circumstances the longer term financial viability of the regime is dependent on either increasing Commonwealth SPPs to the funding network or the NHHN delivering cost savings through reducing hospitalisation rates. Whilst there is some evidence that increasing investment in primary care may decrease demand for hospital services it is not conclusive (Starfield *et al* 2005).

This raises the critical question of which level of government would have to manage the financial and political risks associated with meeting the potential funding shortfall? Given that day-to-day management of Australia's public hospital would have remained the States' responsibility they would ultimately have been held politically accountable for the quality and availability of health services delivered through the public hospital system. Moreover, as discussed below, ambiguity surrounding the 'efficient price' for hospital services also posed significant financial risks for the States. In summary, inadequate funding combined with the fact that citizens hold (and will continue to hold) State Governments accountable for the management of public hospitals was likely to perpetuate a situation where the States are the funders of last resort for Australia's public hospital system.

Finally, consideration needs to be given to the under-appreciated interaction between the financial arrangements central to the NHHN and the Commonwealth Grants Commission (CGC) methodology for allocating general revenue assistance to the States (Warren 2010: 11). Warren argues that unless the CGC methodology is reformed, increasing NHHN funding will lead to an automatic reduction in non-GST general revenue assistance effectively contradicting the policy intent of the funding.

In summary, this financial analysis suggests that the States (initially just Western Australia) were right to resist the original NHHN funding model and propose an alternative regime which did not involve the State's relinquishing up to 30% of their GST revenues. Despite limitations in relation to data and policy parameters this analysis suggests that the original NHHN model would have done little to address the structural financial problems and intergovernmental conflicts that have afflicted Australian health policy in recent years. In this context it is critically important to assess whether the reformed health service delivery arrangements common to both the NHHN and the Gillard Model are likely to improve the efficiency of Australia's health system.

### **The NHHN's Impact on the Demand for Health Services**

Australia has a significantly higher rate of hospitalisation than the UK, USA, New Zealand and Canada (AIHW 2010). Creating a clear demarcation of roles and responsibilities in the health care system should help overall coherence of the system, reduce the political 'blame game' and mitigate unnecessary demands on public hospitals. When judged against a single funder ideal-model, the present reforms fall short; there is no neat separation of the Commonwealth as a purchaser of all health care and regulator of quality and States as providers of hospital services. Yet even if the single funder is politically infeasible at this time, nevertheless from a patient's point of view, there remains a pressing need to organise successful cross-jurisdictional pathways in the system; to not allow governance boundaries to inhibit the smooth and efficient delivery of health care to patients.

At the organisational level, the challenge of improving the connectedness of the system from the patient point of view relies on the relationship between the new Local Hospital Networks (LHNs) and Medicare Locals (MLs). However, these new boundaries in the system were underspecified in the NHHN and remain so in the Gillard Model, as is their relationship to aged care. Although three parts of a new system – local hospitals, local Medicare and aged care – remain the foundation of the health care system, how they are to be integrated and linked up will be the critical success factor for the implementation of the reform package. The problems of organisational planning and partnership working are endemic in the public sector; and both reform models lack clarity on this implementation issue. For example, in terms of hospitals, it is still uncertain about territorial scale and governance arrangements for LHNs and whether these will be coterminous with MLs.

The 2010 Intergenerational Report (Treasury 2010b), as well as an 2009 IMF report, preview the extent of the fiscal costs of health and long term care of the population over 65 confronting Australia: these will increase from 6.5% of GDP up to 12.6% of GDP on relatively modest assumptions by 2050 and in Commonwealth budget terms, on current policy settings, there will be a substantial redistribution as health increases its share of total expenditure from 15% to 26%. In our view, it is older Australians that face the biggest boundaries in the system: those between health, aged and community care. This is the sharp end of the cross-jurisdictional, joined-up ambitions of the reform package. There is

a pressing requirement for universal case management, especially in relation to complex cases and chronic conditions, with its corollary of an effective e-records system as well as sustained assistance for the aged care industry. Low-level non-clinical health and social care does need greater private and voluntary sector involvement, such as to increase the number of places in homes and care facilities. The link between hospitals and nursing homes remains poorly understood and planned; as is the connection, particularly for older Australians, between community care services and primary health care services such as chronic disease management strategies. The reform package at this design stage lacks detail and clarity about how these sorts of governance arrangements will be implemented.

There is always a difference between the 'ideal' system and 'real' system. Improving connections between different parts of the Australian health care system will require, at the clinical 'coalface', cross-boundary case management teams and clear, established pathways through the system. In turn, this requires genuine devolution of power to the level at which health care is actually supplied. In such terms, there was a consensus among policy analysts that greater clinician involvement in making decisions about these clinical pathways through the system (e.g. outpatient centres and GP links) was highly desirable (Kinsman *et al* 2004, Ovretveit 2010). However, will the implementation of the devolution of power to LHNs foreseen in the reform design actually succeed in releasing dynamism and innovation in the system to mitigate the adverse influence of boundaries? The role of the Commonwealth health minister and State health ministers in the 'blame game' is critical in realising the beneficial consequences of decentralisation. From the perspective of the contemporary politics of health and experience in other OECD countries, in particular where individual cases of mistakes or poor performance gain attention and come to stand as representative of the whole, there are grounds for some scepticism about devolution in practice (Greener *et al* 2009).

A proposal to mitigate this problem of health politics would be a formal separation of policy and operations at the Commonwealth level. The capacity of LHNs to realise the potential for autonomy envisaged in the reform package demands both early leadership from the new organisations and a Commonwealth commitment to insulate the operational management of LHNs from ministerial interference; this commitment is more credible when it is in solid organisational form, for example a separate executive, perhaps with regional offices, that manages the Commonwealth's transactions with LHNs. In addition, the Commonwealth will need to provide regional support for primary carers, aged care and community care and support information linkages throughout the system through e-health initiatives.

### **The NHHN's Impact on the Supply of Health Services**

In principle, activity based funding should be good for the public hospital system by improving the transparency of the relationship between what is done and what is funded. But international experience is that the incentives created by activity-based funding are complex and potentially perverse (Siciliani and Hurst 2005). Implementation difficulties have been a feature of all countries that have introduced national pricing schemes, with schedules having to be constantly rebalanced and methods for setting prices regularly revisited. Hospitals do not face a single price but rather an extensive menu of prices for different diagnosis-related group (DRG) codes, and it is relative prices that will provide incentives for behaviour of the system and patients. In such terms, the incentives in performance terms in the Gillard Model are not clear. If the national price is greater than cost of provision then hospitals will supply

that service, but what if the national 'efficient price' is lower than the hospital's cost? Will there be transition arrangements until price equals cost or will hospitals be permitted to withdraw services that they are unable to provide at the efficient price? Furthermore, activity-based funding is a means of allocating a health budget and does not reveal cost information; therefore it may provide inaccurate signals for supply capacity, and both the renewal and maintenance of health care capital. How the prices will be set by the new national Hospital Pricing Authority (HPA) will be critical to the supply incentives in the system. For example, if average cost pricing rather than marginal cost pricing is adopted, then at the margin, the Commonwealth could potentially be funding well over 60% of medical costs, thereby providing incentives to states to oversupply certain hospital services.

In addition, there are two other common problems about case-based funding that have occurred internationally. First, there is the selection problem of incentives to take the easy cases, and reduce the harder, more expensive clinical services. Second, national prices by DRG code provide low-powered incentives for improving clinical service quality.

While activity based funding presents some governance advantages in the system by increasing transparency and facilitating accountability, it is a moot point whether it will drive efficiencies in hospital service provision to overcome the macro-level financial pressures outlined above.

## **The Gillard Model and Its Implications**

The Gillard Model, endorsed by COAG in February 2011, links the service delivery reforms associated with the original NHHN to a new, simpler funding model. Rather than the Commonwealth meeting 60% of the cost of public hospital service delivery in return for up to 30% of the States' and Territories' GST revenue, the revised model commits Canberra to fund 50% of the growth in public hospital costs (Gillard 2011). This matched funding will be phased in, increasing from 45% in 2014-15 to eventually covering 50% of the growth in hospital costs by 2017-18. The Commonwealth claims this commitment will contribute an additional \$16.4 billion in extra hospital funding by 2019-20. While, at the time of writing, there is insufficient detail to evaluate these claims, the Gillard Model is simpler and will allow the Commonwealth and the States to share the financial risks associated with health cost inflation more evenly. In contrast, it was likely that the States would have shouldered a disproportionate share of this risk under the NHHN. At a micro level there are critical aspects of both the NHHN and the Gillard Model that are underspecified. Specifically, the successful implementation of the Model is critically dependent on clarifying three critical sets of relationships within the network structure:

- (i) The interrelationships of LHNs, MLs and aged care provision in terms of the coherence of the patient experience of the Australian health care system;
- (ii) The role of the Commonwealth in promoting decentralised health care decision-making;
- (iii) The role of State governments in the design and implementation of the new LHNs.

If these critical relationships can be adequately specified and managed then despite the Commonwealth's poor historical record, the Gillard Government just may be able to realise its ambition of creating a better integrated, effective and financially sustainable national health system.

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# The Home Insulation Program Policy Debacle: Haste Makes Waste

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The Rudd government's Home Insulation Program (HIP) is widely recognised as a significant policy failure. By reference to standard texts on Australian public policy, this article argues that the HIP debacle owed much to the government's determination to implement a program speedily without adequate planning or consultation. Although the HIP was part of an economic stimulus package to address declining private sector activity resulting from the global financial crisis, the program's effectiveness was significantly diminished owing to insufficient attention to good public policy recommendations that would have enhanced the HIP's potential success.

One of the greatest policy debacles of the Rudd government was its Home Insulation Program (HIP).<sup>1</sup> Four deaths occurred before the program was cancelled on 22 April 2010; roughly \$1 bn of the \$2.45 bn spent was, in the end, used to cover the costs of the flawed scheme, including safety and quality inspections for about 200,000 homes fitted with ceiling batts or foil (Berkovic 2010f); and over 200 fires were caused.<sup>2</sup> In July 2010 a Senate committee called for a Royal Commission in order "to unravel the gross and systematic failures in the development and implementation of the Program" (Senate Committee 2010: ix). Julia Gillard, who replaced Kevin Rudd as prime minister on 24 June 2010, stated during the election campaign that "the insulation scheme was an absolute mess" (Karavelas and Franklin 2010). And the Auditor-General, while acknowledging the program's role as part of the government's response to the Global Financial Crisis (GFC) in terms of generating economic stimulus and employment (and possible energy efficiency gains), concluded that "stimulus objective overrode risk management practices that should have been expected given the inherent program risks". The Auditor-General stated that the HIP "has been a costly program for the outcomes achieved", that there "still remains a range of safety concerns" with "serious inconvenience to many householders", that reputational damage had been caused to the insulation industry, and events had "harmed the reputation of the Australian Public Service for effective service delivery" (Auditor-General 2010:26–27).

This article argues that the HIP did not give sufficient attention to key measures advocated by widely used texts on Australian public policy, even allowing for significant differences between them. For instance, the *Australian Policy Handbook* (APH) provides a normative/

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\* The author would like to thank John Nethercote, Adjunct Professor at the Australian Catholic University, for his encouragement, advice and reading of numerous drafts in regard to this article.

1 This article refers to the Home Insulation Program (HIP) throughout, although this scheme was called the Home Owner Insulation Program until September 2009.

2 This included 165 attended by fire authorities with another 37 confirmed through roof inspections, although 87 per cent of incidents (176 households) did not result in structural damage (DCCEE 2010).

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guidelines approach to public policy by illuminating various stages of policy planning and implementation (Althaus, *et al.* 2007). Meanwhile, in *Beyond the policy cycle*, Hal Colebatch (2006:1) cautions that understanding public policy is much more challenging as “the world of policy is populated by a range of players with distinct concerns, and that policy-making is the intersection of these diverse agendas, not a collective attempt to accomplish some known goal”.

Despite important differences between APH and Colebatch, these policy texts share commonality in terms of their policy recommendations that would have improved the operation of the HIP if upheld. Instead, as this article will highlight, the HIP proved a debacle on three counts. First, in terms of leadership, the Rudd government’s determination to implement a policy speedily undermined any chance of formulating a more balanced and effective policy approach while also placing immense pressure on those responsible for implementation, the Commonwealth’s Department of Environment, Water, Heritage and the Arts (DEWHA) and State/Territory governments. Second, the government downplayed the importance of consultation, a crucial dimension to the HIP given that various safety and training concerns were expressed by a variety of industry players. Third, there is the art of judgment; the government did not display common sense in regard to the HIP in understanding likely participant and consumer behaviour regarding substantial fraud and rorts.

### **The role of government leadership**

As with any public program, the quality of ministerial leadership is crucial to success. In this regard, the APH and Colebatch approaches are in agreement; they both accept the influence of powerful ministers and departments. As Scott Prasser (2006:26–9) observes in a chapter for Colebatch’s *Beyond the Policy Cycle*, “the public bureaucracy is now expected to be more responsive to the demands of elected governments and their policy agendas”. APH also states that “the policy domain speaks through the heads of central agencies such as Prime Minister and Cabinet (PMC), the Department of Finance and Administration (Finance) and Treasury, though policy itself is typically developed within the relevant policy department. The central agencies also speak for the final domain, administration” (Althaus, Bridgman and Davis 2007:26).

As the Rudd government demonstrated with the HIP, speedy implementation was the major goal rather than a policy that was supported by all involved participants. It has been documented that DEWHA had earlier favoured a five-year roll-out in order to deliver the HIP given its nature and size, yet the government wanted a two and a half year roll-out (Auditor-General 2010:69). The government’s decision, approving the HIP as part of its \$42 bn Nation Building and Jobs Plan (Rudd 2009a&b), followed Treasury’s advice that a stimulus package was necessary to counter the likely impact of the GFC in 2010–11 (SERC 2009:E3–E4).

The government promoted large-scale participation as quickly as possible. The HIP included a rebate of \$1600 for householders (intended to run until 31 December 2011); Medicare was responsible for online registration and payment to installers where approved by DEWHA (Auditor-General 2010:49). According to DEWHA, the \$1600 rebate was designed “to achieve maximum impact in line with the economic stimulus and employment objectives of the program” (DEWHA Submission 19:14). The Insulation Council of Australia and New Zealand (ICANZ), in 2007, estimated that an average home would cost from \$1200 to \$1500 to have ceiling insulation professionally installed, and that a \$500 rebate would only achieve

a 28 per cent uptake over three years (ICANZ Submission 18:11; D'Arcy 2010:72; Deloitte Insight Economics 2007: 6).

To manage risk, DEWHA did follow part of the policy framework suggested by APH by commissioning Minter Ellison to undertake a Risk Register and Management Plan in March 2009. Completed in April 2009, and publicly released in February 2010, the Risk Register listed 19 individual risks. These included an extremely limited time frame (by 1 July 2009); inadequate regulation to prevent fraudulent or inappropriate behaviour; inadequate training; and quality issues (Minter Ellison 2009:1).

However, this advice was not heeded. Although Minter Ellison urged the initial rebate scheme be extended to 30 September 2009 instead of operating to 30 June 2009 with householders continuing to pay the installer and then claiming a \$1600 reimbursement (Minter Ellison 2009:1), DEWHA decided not to defer on the basis it had addressed the risks identified (Forbes 2010:61). From 1 July 2009, if the contracted price was less than the \$1600 rebate limit householders paid nothing for insulation. Installers were paid directly through Medicare's claim processing system (Senate Committee 2010:10). Further, under the Risk Register and Management Plan, fraud risk was transferred from the Commonwealth to providers where possible; installers were required to be insured properly and indemnify the Commonwealth against claims/loss arising from installers' actions (Minter Ellison 2009:1).

Such measures reinforced the government's determination to implement the HIP with minimal delay. As one document reveals, the Nation Building and Jobs Plan was overseen by the Commonwealth Coordinator General (then within Department of PMC), whose purpose was to "break red tape and get work happening on the ground as quickly as possible" (*Nation Building Economic Stimulus Plan* 2009:12). Michael Mrdak (2010:10, former Coordinator General, has stated that "the Government had clearly set out a very ambitious program for the rollout of a number of these infrastructure initiatives... The time frames were set out in the National Partnership Agreement, which was agreed by COAG. There certainly was a strong view by government and by senior officials that we should continue to press on to meet the time frames that had been set out by the government". At an industry consultation on 18 February 2009, a representative of the Office of the Coordinator General informed the meeting that "\$2.7 billion worth of funding is in part structured around the Government going into deficit for a short period of time. Clear statements from Treasurer and the Prime Minister required that funding be spent within 2.5 years with a cap of \$1600 per household" (ICANZ 2010).

The government's determination to implement the HIP speedily was made despite significant concern being expressed by various State governments. South Australia's Co-ordinator-General, Rod Hook, told his Commonwealth counterpart, Michael Mrdak, that he had concerns about the program "from day one in February 2009". Hook told the ABC of concerns about safety and how the Commonwealth "was going to audit the program to ensure it was getting value for money and proper installation" (Berkovic 2010c). According to Western Australia's then-Treasurer, Troy Buswell, DEWHA officials told officers of State consumer agencies via a phone hook-up during April 2009 that a 10 per cent failure rate was to be expected<sup>3</sup> (Tillett, Probyn and Taylor 2010). The ABC (and other sources) reveal that DEWHA officials, during April 2009, told state and territory officials that the extensive rollout of insulation posed a risk to lives and property, and that the program would effectively be unregulated (Hudson 2010a; Berkovic and OBrien 2010; Editorial 2010c).

State officials were concerned that the Commonwealth had not mandated qualifications for insulation installers; had no criteria for companies being listed on a Federal register of installers; and that being on the register would be seen by consumers as government endorsement. State officials were also not impressed with the prospect of being responsible for any accident, death or blaze caused by the program (Probyn and Tillett 2010). The NSW government was so alarmed by the HIP just a month after it started that it wanted the Commonwealth to pay to have 10 per cent of work inspected. This was revealed by previously confidential documents (obtained under Freedom of Information) sent to Environment Minister Peter Garrett in September 2009 because of concern about “a spike in the number of house fires” linked to the HIP (Farr 2010).

The Rudd government’s approach to the HIP was very much top-down; DEWHA and other levels of government were expected to fall in line. As revealed by an anonymous insider from DEWHA on ABC TV’s *Four Corners* (April 2010), “we were told many times by senior management that the technical and safety issues were of less importance than getting this programme up and running and creating jobs” (Carlisle 2010).

## Consultation

The Rudd government’s determination to implement the HIP speedily raises the question of whether adequate consultation was carried out with various key industry players.

Both APH and Colebatch emphasise the importance of consultation and APH notes the problem “of how to weight differing voices” (Althaus *et al.* 2007:98). The APH makes a number of points. First, consultation provides “an opportunity for policy makers to invite and obtain stakeholder input into the calculation of whether any particular policy is feasible” (Althaus *et al.* 2007:98). Second, consultation serves “to improve the quality of policy decisions through access to relevant information and perspectives, including exchange of problem and solution definitions, alternatives and criteria”. Third, consultation promotes “understanding, acceptance and legitimacy of proposed policies” and “promotes consensus about policy choices ... by providing transparency, accountability and opportunities for participation (Althaus *et al.* 2007: 119-120). Fourth, consultation boosts a policy’s feasibility by improving “the confidence of decision makers that a policy is not going to be riddled with embarrassing problems even before it commences the implementation phase” (Althaus *et al.* 2007: 98). Similarly, Prasser (2006:273–74) notes that:

every policy issue has its own particular group of interests, so one of the tests of good politics and good policy is that there is overall support for any new proposal from these groups. The range of interest groups will vary from issue to issue, and across different policy areas. The task is to recognise what groups are important and to gauge their influence and power. This will partly depend on the party in power.

The reality is that the HIP applied to an industry where the need for extensive consultation was essential if only for the high safety risks. While it has been noted that the home insulation industry previously had few special regulations, besides being “subject to normal work and safety provisions and employers’ duty of care”, with insulation “frequently installed by householders themselves” (Tiffen 2010), greater attention to consultation should have been a given because the insulation of Australian homes was moving from the previous historical rate of about 65,000–70,000 per year to 2.7 million homes in two and a half years (ICANZ

Submission 18: 6; Combet 2010a:2149–51). Further, any malpractice within the insulation industry was likely to multiply owing to the likelihood that the number of installer companies would increase substantially from an estimated 200 established businesses installing insulation prior to the HIP (Auditor-General 2010:65–66).

The DEWHA did not consult widely with the electrical industry during the design stage of HIP, even allowing for the restricted timeframe for implementation. As the Auditor-General (2010:67) noted, “consultation would most likely have enhanced the department’s awareness of safety issues indicated”.

The safeguards that were introduced proved inadequate, as was predicted by many industry groups. From 1 July 2009, installer businesses were required to be registered with DEWHA, have occupational health and safety training, and comply with relevant Australian Standards for insulation materials and installation (Installer Advice No. 9 and No. 12). There was mandatory minimum occupational health and safety training for all personnel involved in installation; installers had to comply with State/Territory workplace and occupational health and safety laws; and installation practices were governed by relevant Australian Standards and State/Territory regulations for laying thermal insulation and working around electrical wiring (DEWHA Submission 19:5, 26). The Construction and Property Services Industry Skills Council also produced a range of training resources for Registered Training Providers; including a “pocket book” for installers available from 1 August 2009 which contained information about common installation hazards including electrical hazards (CPSISC 2009:2).

While the Auditor-General has suggested that “strong and divergent views among stakeholders made it difficult for DEWHA to make a judgement on how stringent to make the terms and conditions” (Auditor-General 2010: 77), there is considerable evidence that important concerns from a variety of industry players were virtually ignored.

There had been, with substantial justification, extensive concern about electrical safety prior to its implementation, even though the Insulation Council of Australia and New Zealand (ICANZ) argued that it did not support compulsory electrical inspections on the basis that “experienced insulation installers know what to do and have managed this safely over the years” (ICANZ, Submission 18:17). Master Electricians Australia (MEA) expressed concern about inadequate training given the various electrical risks. These included pre-existing faults in wiring in the roof space, and faulty installation of aluminium foil because it is a conductor of electricity (MEA 2009:3; Garrett 2010a).

On 18 May 2009, the MEA warned about “a very serious fire risk” being caused by the incorrect installation of woollen batts, “especially in older homes” (MEA 2009:3). The National Electrical and Communications Association (NECA), having stated in February 2009 that “there is a significant risk of electrical equipment overheating especially in the event of downlights in ceilings being covered if insulation is installed inappropriately”, recommended that a licensed electrician check wiring before installation (NECA 2009; Bostrom 2010:53–4). NECA’s chief executive, James Tinslay, wrote to the Minister, Peter Garrett (9 March) about the “inherent dangers” of installing insulation near electrical cables in regards to fires and the need to train installers (NECA 2009; Hudson 2010a; Berkovic and O’Brien 2010), while also stressing that there were “inherent dangers” with foil insulation (Balogh, Pierce & Hintz 2010). The National Secretary of the Electrical Trades Union, Peter Tighe, reported that his

union raised concerns about poor electrical safety aspects early in 2009 during discussions with a departmental advisory group reporting to Garrett; “they ignored our advice and gave the impression they thought our concerns were excessive” (Editorial 2010b). The government also ignored knowledge that plastic staples had been recommended in New Zealand since 2007 (NZMED 2007); ICANZ also noted on 18 February 2009 that a similar program in New Zealand “had to be suspended because three people electrocuted themselves” (ICANZ 2010).

Concerning training, Dave Noonan, National Secretary of the Construction Forestry Mining and Energy Union (CFMEU), reported that the union:

expressed concerns about the poor level of training right from the start on the basis that there are risks involved in this sort of work ... We made it very clear that people working in this program would need to be trained to identify potential electrical risks and they’d need to be aware of the risks involved in working at heights and in confined spaces ... We also made it clear this program would attract young, vulnerable workers with no experience in the construction industry. We said they’d also need proper training regarding unsafe work practices and their right to refuse to work in an unsafe environment (Beeby 2010a).

The CFMEU was so concerned about inadequate funding for training installers under the program that, with the exception of NSW, its registered training organisations throughout Australia refused to participate in the program. Assistant national secretary, Lindsay Fraser, a member of the technical working group appointed in 2009 to advise the government on job opportunities and training, stated that “they were not prepared to fund the training to the level we argued was necessary” (Beeby 2010c).

With the deaths of installers, the Rudd government adopted tougher requirements. From 2 November 2009, after the death of the first installer on 19 October 2009, metal fasteners were banned; plastic staples were made compulsory. It also became mandatory for installation of covers to be placed over downlights and other ceiling appliances, and an electrical safety inspection program was announced for foil installations in Queensland (Garrett 2009a).

It was only on 17 December 2009, following the third insulation-related death, that the government announced that training requirements now applied beyond supervisors to all employees involved in installation, although this was only to take effect from 12 February 2010 (Garrett 2009b&c). Any company unable to provide proof of training of one of the three competency criteria by their workers would be suspended (Rehn 2010; Auditor-General 2010: 108). As of February 2010, only 2,738 or 37 per cent of registered installers could provide evidence of minimum competency requirements; the Auditor-General has suggested that this low figure may be explained by higher costs of compliance with the new requirements (Auditor-General 2010:108).

After the fourth insulation-related death during February 2010, the government suspended the use of foil insulation from the HIP (9 February 2010) because of concerns about electrical safety where foil was not properly installed (Editorial 2010a), with the HIP Program closed on 19 February 2010 for safety and compliance reasons (Garrett 2010b). The HIP was ultimately axed on 22 April 2010 after the government received a report by Dr Allan Hawke (6 April 2010) which expressed “grave concerns about the wisdom of proceeding” and “safety and quality risks” that “cannot be fully abated” (Combet 2010b).

As for potential industry benefits, Brian Tikey, representing the Aluminium Foil Insulation Association (AFIA), wrote to Prime Minister Rudd in February 2009 about the rebate. Tikey argued that the subsidy would open the door to a flood of cheap fibreglass imports and do little to benefit Australian manufacturers. Neither Rudd nor Garrett replied; nor was there any departmental acknowledgement that the letter had been received or considered (Beeby 2010b). Although ICANZ predicted that any reliance on imports would be minimal (ICANZ 2010), AFIA also warned the government (February 2009) that “cheap imports” would not meet Australian standards or be “compliant to the Building Code of Australia” (AFIA 2009:2).

In time, the Polyester Insulation Manufacturers Association of Australia (PIMAA), although not only focusing on imports, claimed that 30 to 40 per cent of homes used non-compliant products (Zuzul 2010:10), a claim which ICANZ strongly disputed (Thompson 2010:58). Although ICANZ estimated that only about 8 per cent of HIP materials were Chinese, about 40 per cent of the Chinese materials (about 3 per cent of the HIP total) failed thermal claims (ICANZ 2010; Thompson 2010:58). PIMAA also felt compelled to warn Garrett about excessive levels of formaldehyde from imports, a substance (although not specifically banned) which has been linked to respiratory problems and cancer (Hudson 2010b). At the Senate inquiry, DEWHA noted that any complaint by householders about non-compliant materials was a matter for State/Territory fair trading authorities (DEWHA Submission 19:30).

### **The Art of Judgment**

The Rudd government’s determination to implement the HIP speedily, and downplay many warnings from a variety of those involved during the consultation stage, also begs the question about its capacity for sound judgement.

The need for careful judgment is recognised by both APH and Colebatch. APH notes that “it is difficult to test behavioural assumptions before a policy is implemented”. APH emphasises the need for careful judgment given that “policies must make assumptions about behaviour” with “incentives that encourage one behaviour over another, or disincentives to encourage particular actions”, and “must incorporate guesses about take-up and commitment, and mechanisms to deal with shirking and encourage compliance” (Althaus *et al.* 2007:7). Colebatch observes that “policy does not exist in a vacuum, but in relation to some identified field of practice, and this implies knowledge, both of the problem area and of the things that might be done about it” (Colebatch 2002:10).

To some degree, the Auditor-General softens its criticism of DEWHA by suggesting that the HIP proved “more complex than anticipated”, with risk treatment options proving inadequate over time “to manage the emerging risks” (Auditor-General 2010:76). The report suggests that “there may have been a perception by householders that installers who were listed on the register had gone through a more stringent registration process than agreeing to the terms of conditions of registration and an Australian Business Number validation check, which was all that was required until 1 September 2009”, a period which involved 70 per cent of registrations. It was only from 1 September 2009 that all new installers were required “to provide copies of OH&S certificates for all installers associated with their business, verification of public liability and property damage insurance, verification of workers’ compensation insurance (where applicable) and evidence of competency for those installers in a supervisory role” (Auditor-General 2010:105)

The HIP debacle reinforces a reality that should always be present in policy-making. This is the need to take account of human nature, to understand that all action occurs in an imperfect world. This is not a new insight. The *Federalist Papers*, for example, warn that “if men were angels, no government would be necessary”. And, further, “if angels were to govern men, neither external controls nor government would be necessary” (Madison, Hamilton and Jay 1788:319–20).

Realistic appraisal of the HIP based on what could go wrong would have told ministers and administrators that the program would be open to abuse. The scale of the funding warranted an active obligation to minimise risk; it should certainly not have been assumed that all installer companies would do the right thing.

The government’s haste to implement the HIP (and promote extensive take up) overrode other sensible approaches that placed a greater burden on the purchaser and helped to minimise rorting. Until 30 June 2009, two independent quotes along with a site inspection (with exemptions for remote areas) were required. It was naïve to remove this requirement on 1 July “to allow the market and householders to interact without the involvement of the department” (DEWHA, Submission 19:8, 15; HIP 2009:5). Nor was it sensible to place the burden on the consumer to choose a suitable installer and insulation type, enter into a contract with the installer, and express satisfaction with the work by signing a Work Order Form to enable the installer to be paid through the online payment system (Senate Committee 2010:10).

The likelihood that the HIP would be rorted should have been evident from the start, long before the Hawke Report (April 2010) recognised that “the lack of an upfront payment and no requirement for quotes (between June and November 2009) meant there was little incentive for householders to take the normal level of responsibility for the quality and performance of the installers” (Hawke 2010:29). As two submissions to the Senate committee noted, paying the first 25 per cent of the cost of insulation would have encouraged rational decision making behaviour by consumers and some “buy-in” from them in the outcome (PIMAA 2009:6; Autex Submission 10:6). One Sydney builder, who had been fitting home insulation for five years before the scheme began, commented that, once the government announced the money, the insulation market was like a spaghetti western movie; “there were so many cowboys out there”. “People who had no experience were being hired to do the work and everybody was billing for the total amount of the grant rather than what the job actually cost. It was a giant rort and nobody in authority seemed to care” (Reilly 2010). Similarly, John Muldoon, who has been working in the solar power industry for more than a quarter of a century, said such rebate schemes attracted “shoddy operators and shoddy work” because “whenever you give a significant rebate you attract the wrong people into the industry” whether it be “rainwater tanks, insulation, solar ... there is a common theme, people come into the industry because they think there is a quick buck to be made” (Chalmers and Elsworth 2010).

While the government may have underestimated the possible increase in insulation installer companies (from around 200 companies to 6313 by 6 December 2009 (DEWHA Submission 19:21–23), it should have done much more to minimise the likelihood of dodgy businesses being established to take advantage of the program. After all, the government’s requirements for installers to be registered with DEWHA from July 2009 allowed qualification by three options: a) demonstrating minimum trade related competencies; b) demonstrating insulation specific

competency by either a statement of attainment from a Registered Training Organisation or Training Package relating to insulation installation; or c) through two years of work experience installing insulation (Installer Advice No. 9). It was only mandatory for the supervisor to have insulation-specific competencies (DEWHA 2009; Auditor-General 2010:107).

One company, Sky green, noted that a supervisor could have a large crew of untrained people performing the installations and simply arrive at each installation to sign off on the form (Sky green 2009:10). Not only did new installation businesses emerge from businesses such as pest controllers, gyprock installers and pool and spa companies (Berkovic 2009), even convicted criminals were able to benefit from the HIP because of minimal checks on those receiving public money. One person accessed taxpayer funds for 10 months despite previously serving seven years in prison from 2000 for eight violent crimes, including conspiracy to murder, false imprisonment, four counts of sexual assault without consent, and maliciously wounding a person with intent to inflict grievous bodily harm and an attempt to cause contraction of a grievous body disease (Berkovic 2010b). Another convicted arsonist (2002) who had previously torched a kebab shop for insurance money was director of a company which installed government-subsidised roof insulation until deregistered during February 2010 after causing a house fire through insulation placed over the downlights in a roof (Wilson 2010).

With few checks on the rebate scheme, and the rebate only reduced from \$1600 to \$1200 from 2 November 2009 (Garrett 2009a),<sup>4</sup> the number of HIP installations exploded after July 2009 once costs for consumers were basically eliminated with no upfront payment, particularly in months when the rebate amount was reduced or the program suspended (November 2009 and February 2010).<sup>5</sup>

In contrast to APH's observations about judgment, the government implemented few measures to encourage consumers to adopt their own checks to enhance quality and value for money by paying some of the fee, a reality that encouraged a climate significantly amenable to fraud and/or poor quality, along with much waste of the public purse. While DEWHA noted that only 0.65 per cent of participants complained about their experience (Thompson 2010:24), the Australia Institute found that, among householders approached by insulation businesses in the previous 12 months, 16 per cent were told that insulation needs to be replaced regularly — misinformation highlighting attempts to defraud the Commonwealth (Australia Institute, Submission 46:2–3).

It took months of adverse media publicity before the government acted, notwithstanding compelling evidence about the abuse of HIP. In June 2009, the Australian Competition and Consumer Commission announced that it was already investigating reports that the necessary second quote could be obtained by telephone or from a subcontractor, without visiting the house, and that one insulation company had “partnered” another company to provide the necessary quotes (Maley 2009).

<sup>4</sup> However, installers could continue to claim up to \$1600 until 30 November 2009 if four criteria were met: that the quote for installation had been accepted by the householder prior to 2 November 2009; installation was completed between 2 November and 16 November 2009; online component of the claim was lodged by the installer prior to the manual component; and online and manual components of the claim were lodged prior to 30 November 2009 (Auditor-General 2010: 121-122).

<sup>5</sup> HIP installation figures for 2009 were: March 3,321; April 7,917; May 18,175; June 23,642; July 78,375; August 108,169; September 136,838; October 165,104; November 209,267; and December 136,402. For 2010: January 139,850; and February 186,095 (Senate Committee 2010: 19).

Yet, it was only from December 2009 that new mandatory risk assessment was required for each job before work started, which included filling in a form to prompt the installer to look for the listed hazards, and giving advice about how to respond to them (Garrett 2009c). New guidelines also required two independent quotes and a site inspection (with exemptions for remote areas) (DEWHA Submission 19:8, 15); while installers attempting to access grant/s were now subject to “stringent” Australian Business Number and background checks (Vasek 2009).

Common sense should have also prevailed regarding the possibility that new installer businesses, without adequate safety training, would provide a much greater risk to the public and help undermine long-established successful businesses. This is despite the Auditor-General suggesting that “learning on the job and allowing qualified and experienced individuals to supervise the work of inexperienced trainees is an acceptable practice within the general construction industry”. The Auditor-General also acknowledged that “installing insulation, which requires working in a roof space (particularly near electrical wiring), is hazardous and presented a high level of risk for inexperienced and untrained workers” (Auditor-General 2010: 107).

As the Master Electricians Association noted in its submission to the Senate committee, its more than 70 years experience representing the electrical contracting industry showed clearly that unskilled labour combined with electrical cabling was a recipe for tragedy (MEA 2009:3). Several organisations noted that foil had been used safely for 50 years, and that recent fatalities were caused by the influx of inexperienced workers (AMI 2010:2; Tikey 2010:78; Renouf 2010:78). With foil better suited to Queensland’s climate than fibreglass, Silverline Insulation founder Peter Venn, who employs 25 people in Queensland and had been installing foil insulation for 23 years and had never had an accident, noted that the government had “rushed ahead and allowed every unqualified person to come into the industry, that’s what happens” (Berkovic 2010a). AFIA’s vice-president Michel Bostrom also argued again that “in 54 years since the first roll of foil was sold in Australia ... there has not been, to my knowledge, a single case of electrocution installing foil until now” (Maiden 2010). Some 100,000 Queensland homes had been fitted with foil during the past 30 years without any electrical safety issues (Berkovic 2010d).

Others noted how installers in the past had always relied on staff learning how to work safely on the job (AMI 2010:2); that most in the insulation industry would not have allowed installers to go out after only having been on a two-day course (Arblaster 2010:21); that brief formal training – six hours to two days – could not adequately replace supervised experience or surpass a stipulation that at least one person in a roof should be either a tradesperson or someone with at least six months experience in the industry (Bostrom 2010); that training up to October 2009 was scant to non-existent for most installers, with many new entrants having little experience (MEA 2009:3); and that exemptions from competency requirements defied logic as a “free pass” to a number of trades was problematic given limited direct dealings with insulation” (AFIA 2009:6).

## **Evaluation and lessons learned**

Following APH, there is a need to evaluate a policy or program to draw lessons from the HIP debacle.

While it was hoped that the HIP would insulate a further 2.7 million homes (Auditor-General 2010:65), just 1.1 million roofs were insulated (at a cost of \$1.45 bn) before the HIP was axed

(Auditor-General 2010:26). It has already been noted that about \$1 billion, approximately 40 per cent of the \$2.45 billion cancelled scheme, will be needed to cover the costs of the HIP (although any surplus amount would be returned to the budget), including safety and quality inspections of about 200,000 homes fitted with ceiling batts or foil. This included \$424 million for the Foil Insulation Safety Program and Home Insulation Safety Program, and \$56 million for various industry assistance packages (Auditor-General 2010: 26).

Substantial rectification of completed work was needed. As of March 2010, of 13,808 roof inspections conducted, around 29 per cent had identified installations “with some level of deficiency, ranging from minor quality issues to serious safety concerns” (Auditor-General 2010:26). By 25 July 2010, 489 homes had foil insulation removed (Auditor-General 2010:99).

There were a significant number of complaints. While the 11,874 complaints represented less than 1 per cent of total installations, there were 2,883 instances of no insulation being installed; 1,348 concerns about fire or safety risks; and 193 complaints of work order forms being signed but no installation done. There were also 1,051 complaints about incomplete work; 1,317 towards questionable installer practices; 375 property damage; 222 overcharging; 292 installing without consent; and 150 for using non-compliant material (Auditor-General 2010:90–91).

There was some benefit in terms of employment, although the actual number of jobs created from the HIP was “not monitored or reported against in any disciplined way” (Auditor-General 2010:37). While DEWHA estimates that an additional 6,000 to 10,000 new jobs were created by the end of 2009 (Auditor-General 2010:37), Fletcher, a company producing about 40 per cent of Australia’s insulation, estimating during July 2010 that 8000 jobs would be lost from the industry (Rolfe 2010). It is highly probable that a more gradual expansion of the HIP could have sustained a steady increase of employment over a longer time frame, albeit that initial job creation would have been lower.

More gradual take-up of the HIP would also have helped domestic insulation batts production keep up with demand with much less dependence upon imports, despite DEWHA noting that Australia’s World Trade Organization free trade obligations prevented restrictions on imports (Kruk 2010:26). While it is difficult to know precisely how much material was imported as statistics do not separate glasswool batts from total fibreglass products (DEWHA, Submission 19:21), ICANZ estimated that about 40 per cent of HIP installations used imported products from China, the United States, the United Kingdom (UK), Malaysia and Thailand (ICANZ 2010).

The HIP disaster also led to costly business decisions. One company, projecting increased demand for fire retardant downlight barriers, increased production from 500 units a day to 5000 a day, while taking on more staff and installing more equipment. When the HIP was axed, the owner was left with \$65,000 worth of unsold stock and forced to lay off staff (Lower 2010). It is difficult to calculate energy efficiency and greenhouse benefits obtained by the HIP. It had been estimated “that, on average, for each home that received new ceiling insulation, 1.65 tonnes of carbon dioxide equivalent (CO<sub>2</sub>-e) will be saved each year”, equating to an estimated 1.9 million tonnes of CO<sub>2</sub>-e per annum nationally based on 1.16 million installations (0.4 per cent of Australia’s annual national greenhouse gas emissions in 2007 (Auditor-General 2010:37, 100). According to the Auditor-General, this assumption cannot be determined with any accuracy given “problems with installation quality, the removal of

insulation where safety risks were a problem, and potentially fraudulently claimed installations (Auditor-General 2010:37, 100)

The jury is still out on the final extent of suffering and waste. On fires, the Senate committee's final report concluded that "it is impossible to say whether the rate of defective-installation-causing-fire is higher or lower in HIP jobs than in earlier jobs" (Senate Committee 2010:56). The Committee cited other information that suggested it would require knowledge of the average "incubation period" of an insulation-related fire (Senate Committee 2010:56; ICANZ Submission 18:6; Combet 2010a:2151). One source, comparing ABS data for 2008 with fires under the HIP to February 2010, noted that there had been 80–85 fires per year before the HIP in regard to an average 67,500 per year, compared to 93 fires under the HIP by February 2010 from about 1.1 million installations (Possum Comitatus 2010). Other data were less supportive. By 17 March 2010, the eighteenth fire in the Melbourne metropolitan area occurred in relation to insulation in 2010. There had been seven such fires from January to June 2009 and 31 from July to December 2009 (Webb 2010).

In terms of deaths, more adequate training may have prevented the four deaths — although the construction industry had an average of 35 fatalities a year in Australia despite high OH&S standards and severe penalties for non-compliance (CPSISC 2009:2). When more adequate training was made compulsory for all installers from 12 February 2010, with 7,300 insulation firms having to re-register under new rules (Bita 2010), little more than one-third of businesses met the training standards (Berkovic 2010e).

The four deaths resulting from the HIP have led to legal action. One Queensland company (Arrow Property Maintenance Pty Ltd) pleaded guilty to safety breaches following the electrocution of Reuben Barnes, 16 years old, while installing fibreglass insulation in central Queensland, on November 18, 2009. Though the Rockhampton Industrial Magistrates Court heard that there was no "specific or documented procedures in place for installation of insulation", the company had allowed work to proceed without the house's electricity being turned off and had not provided workers with first aid training in the event of electric shock and offer proper induction training (AAP 2010).

There was also abuse of workers in regards to wages. While the Auditor-General noted just 13 complaints from staff about not being paid (Auditor-General 2010:91), an audit by the Fair Work Ombudsman of more than 200 companies (mostly in Queensland) since April 2010 found that 58 businesses had underpaid their workers following complaints from unions and workers. Hence, seventy-nine workers were repaid nearly \$50,000 (Barr 2010).

In terms of fraud, by April 2010 there were 961 cases where more than one insulator had submitted a claim for payment for insulating the same premises, all of which were referred for further investigation (Medicare Australia 2010).

So what can be learned from the HIP experience? Certainly the Rudd government should have taken advice from DEWHA officials who urged a much slower roll out of the HIP over five years or more, in line with industry warnings (Berkovic 2010d; Auditor-General 2010:69). While a slower rollout would have reduced the HIP's contribution to the government's economic stimulus package to counter the GFC, the government may have learned more from the Victorian Government Insulation Rebate program (13 August 2007 to 31 March 2009) which

budgeted for \$1.2 million for 3000 rebates; provided a rebate of 30 per cent (up to \$300) for non-concession card holders and 50 per cent (up to \$500) for concession card holders. Further, in contrast to the HIP, all installers in the Victorian scheme were required to sign a contract specifying their obligations and complete a six-hour training session conducted by a technical college; participating companies had prior experience in insulation installation; and 5 to 10 per cent of each installer's work was audited for safety and quality by an experienced building inspection company (Auditor-General 2010:53).

Both the Warm Front (UK) and Warm Up (NZ) schemes, started in 2000 and 2009 respectively, also had "extensive checks on installers prior to registration, including safety practices, reliability, quality of work, experience, price, service and financial position; outsourced delivery models that used companies with experience in the insulation or energy efficiency industries; five to 10 per cent of insulation installations audited for quality; and longer delivery timeframes and were of a smaller scale" (Auditor-General 2010:53).

The Auditor-General's report contains a number of recommendations. First, DEWHA, supported by Medicare, could have collected information from installers as part of a better process for claims, compliance and audit to develop risk profiles of installers to "better detect and address instances of serious non-compliance and potential fraud" (Auditor-General 2010: 35). Second, although just 0.7 per cent of de-registrations were due to installer non-compliance with program terms and conditions which were agreed at the time of registration (Auditor-General 2010:35), and conceding that any de-registration process incorporate "principles of natural justice", the de-registration process was far too long (Auditor-General 2010: 132). With the first installer de-registered for non-compliance on 6 October 2009, and the first payment withheld in late August 2009, such penalties did not occur until months after the HIP began (Auditor-General 2010:135). One installer, referred to the compliance committee on 7 October 2009, was not de-registered until 21 December 2009; another, first discussed by the compliance committee in regard to fraud on 12 November 2009, was not de-registered until 15 January 2010. During HIP, six installers were discovered to have duplicate registrations with cases of installers being able to operate after being de-registered for non-compliance (Auditor-General 2010:148).

Other recommendations urged a more appropriate time-frame in terms of diminishing risk and ensuring best outcomes; quicker advice and options given to ministers about possible policy constraints during implementation; responsible departments having "in-depth knowledge of the industry or business environment"; more thorough consultation with key players about relevant issues; a greater understanding of what effect a policy will have on the behaviour of industry and consumers; measures to encourage "the right incentive structures for participants" (such as withholding a proportion of payments or requiring co-payment from those benefiting); governance arrangements that clearly define roles and responsibilities to encourage "appropriate mobilisation of resources and addressing emerging problems in a timely and effective manner"; and appropriate levels of skilled staff and resources to support policy implementation (Auditor-General 2010: 173-176).

## Conclusion

The HIP is a significant case study demonstrating what can happen when best practice public policy recommendations are only given scant attention. Despite differences between key public policy texts such as APH and Colebatch, as illustrated above, the Rudd government's HIP would have been enhanced had more attention been given to known standards of public policy making.

The HIP confirms the worst fears held by both APH and Colebatch. The government did not give adequate attention to serious safety and quality concerns. APH, in this respect, warns that "consulting may just be cherry-picking acceptable responses" (Althaus *et al.* 2007:105), and Colebatch observes that the consultation stage is often swamped by the reality that participation can remain "a powerful rhetorical theme in policy practice" (Colebatch 2006:5–6). APH notes that "creative thinking and high level skills are needed to resolve the tensions in practice" (Althaus *et al.* 2007:105); this expectation was misplaced where the HIP was concerned.

In the end, while the Rudd government implemented the HIP in order to offset predicted lower private sector economic activity caused by the GFC, the failure of the program was derived from its determination to implement the HIP speedily; the lack of consultation with industry players over safety, quality and costs; and poor judgment about likely industry and consumer behaviour.

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# Has There Been a Revolution in Women's Work?



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This paper questions the common view that in the past half-century Australian women have radically changed their focus from unpaid domestic work to employed work. The common view is largely based on labour force participation rates. These rates give a deceptive picture. Actual work activity has to be tracked using figures on hours worked. This paper presents two sets of hourly figures from the Australian Bureau of Statistics (ABS), one set dating back to 1966, the other back to 1987. Neither suggests a dramatic change in women's actual work activity.

It has come to be almost universally regarded as an indisputable fact that women are moving out of the home and into the workforce. Economist Graeme Snooks sees it in this way:

One of the central events of this period [Australia, 1940–1990] was the rush of female household workers to join the market workforce. This phenomenon ... constitutes nothing less than an economic and social revolution — a revolution shared with the rest of the Western world.... (Snooks 1994: 142)

Snooks' view is widely shared. Women's rapid entry into the workforce is regarded as an obvious fact, and not as a complex and debatable claim resting on contestable evidence. Yet in another way it has been perhaps the most 'interpreted' issue of our times. There are two levels here. On one level, the core of the issue has been treated as a simple matter of fact, but on another level the meaning of that supposed fact has been interpreted in multifarious ways. The interpreters all agree that it signifies fundamental changes — for good or ill, according to one's preferred perspective — in the home, the workplace, the economy and ultimately in the shape of Australian society. This paper will argue for two contrary contentions: firstly, there has been no revolution in women's work, and secondly, the attempt to find deeper significance in women's work trends is misguided.

The view I am contesting was well expressed in High Mackay's *Reinventing Australia: The Mind and Mood of Australia in the 90s*. Mackay put women's workforce involvement at the centre of his account of contemporary Australian life. For him, "There is no doubt about which of the redefinitions of the past 20 years [that is, 1970 to 1990] has had the most impact on the Australian way of life: it is the redefinition of gender roles which has taken place in the minds of roughly half the population — the female half". Twenty years ago, he says, women were 'second-class citizens', reduced to acquiring "a kind of second-hand identity from the men they would marry". Today, however, women say: "I am a person, entitled to the same sense of identity and the same status in our society as any other person". This redefinition changes their view of everything — of men, romance, sex, marriage, parenting, family life,

work, household management, and politics. And the key symbolic change in women's lives, the one that they chose as the "expression of their new-found definition of gender", was paid work (Mackay 1993: 24-25).

Mackay is not alone in this view. Graeme Snooks' position on women's entry into the workforce in the last half century is very similar to Mackay's. For Snooks, there has been a revolution in women's work, and its effects are far-reaching. He calls it "the greatest change in capitalist economies since the Industrial Revolution" (1994: 7). In consequence of the workforce change, birth rates and household size have fallen, marriage has become less necessary and divorce more common, family living standards have risen, and the demand for paid household services has risen with them. In general, family responsibilities have declined. Snooks differs from Mackay only — though importantly — in finding economic causes for what Mackay presents as the autonomous self-assertion of the 'new woman' (1994: 97-149).<sup>1</sup>

More recently, Anne Manne tells us that "We are in the midst of a social revolution: in women's roles, and in the relations between the sexes. This revolution has had many consequences". For her, the central contentious point in this revolution is "the increased employment of mothers of preschool children in many wealthy societies all over the world" (2006: 20).<sup>2</sup> Fiona Stanley, Sue Richardson and Margot Prior present a somewhat less dramatic picture of women and work, but they still regard women's entry into the workforce as bringing about 'a new world order', one requiring consequent adaptive changes that are yet to be made. "How the workplace, and modern society generally, respond to this new world order will be crucial for the future outcomes of our children and youth" (2005: 10-11).<sup>3</sup>

What is the evidence for this supposed revolution? In Mackay's popular account it is nothing more than a one-sentence summary of the labour force participation (LFP) statistics. "In 1970, 32 per cent of married women were in the workforce; by 1990, that figure had risen to 53 per cent of all married women and 60 per cent of all mothers with dependent children" (1993: 27). Snooks' very academic discussion also rests its account of female workforce trends entirely on the labour force participation statistics (1994: 15-17). In this, Snooks and Mackay speak for the common view, the only evidence for which rests on LFP rates.<sup>4</sup> This analysis is seriously inadequate, as I shall try to show.

## **Workforce Participation and Workforce Activity**

There is no doubt that women's labour force participation rates have changed dramatically over the past few decades, as Figure 1 shows.

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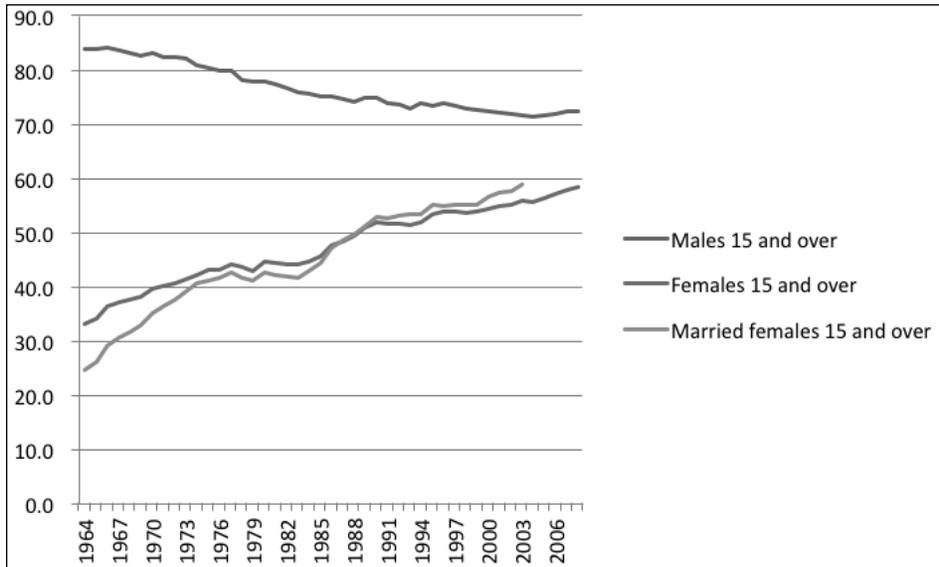
1 Allon J. Uhlmann (2006: 20; see also 166-67) explicitly follows Snooks's portrayal: 'These two processes — the development of technology and the increase in service industry — brought about a major realignment in Australia's political economy in the form of a rapid increase in active participation of married women in the labour market'. However, he notes that men continued to work longer hours than women.

2 Later, she is more cautious, seemingly questioning the evidence for a revolution in women's work (2006: 95-96).

3 They note four other major social changes: population ageing through declining birth rates and increasing longevity; globalisation, corporatisation, and increasing competition in the economic sphere; increases in divorce and sole parenthood; and the rapid growth of technological consumption.

4 Neither Manne nor Stanley et al offer any statistical support for their claims, yet they are clearly doing more than making rhetorical flourishes. Perhaps for them the claims have become taken-for-granted truisms.

Figure 1: Labour Force Participation Rates: Men, Women and Married Women Aged 15 and Over, 1964–2008



Sources: ABS *The Labour Force, Australia*, Cat. No. 6203.0, (various); ABS *Labour Statistics, Australia*, Cat. No. 6101.0 (various); ABS *Labour Force Status and Other Characteristics of Families*, Cat. No. 6224.0 (various); ABS (2000); ABS (2007).

Notes: Some of these figures are also collected in Foster and Stewart (1991) and Reserve Bank of Australia. (1997).

In the past forty-five years, men's labour force participation rate has fallen somewhat (from 84 per cent to 72 per cent), but women's has changed considerably, even radically. In 1964, 33 per cent of all women aged 15 and over were in the workforce. Today the figure is 58 per cent. The trend has been steadily upwards. The trend for married women is similar, though steeper still — up from 25 per cent in 1964 to 59 per cent in 2003 (Foster and Stewart, 1991: 152; ABS, Cat. No. 6203.0; ABS, 2000: 28; ABS, 2007, Work, Table 1.)<sup>5</sup> These figures seem like impressive evidence of change. We might even choose to call the change a revolution, and we might postulate a wide range of effects that could flow from this fundamental change.

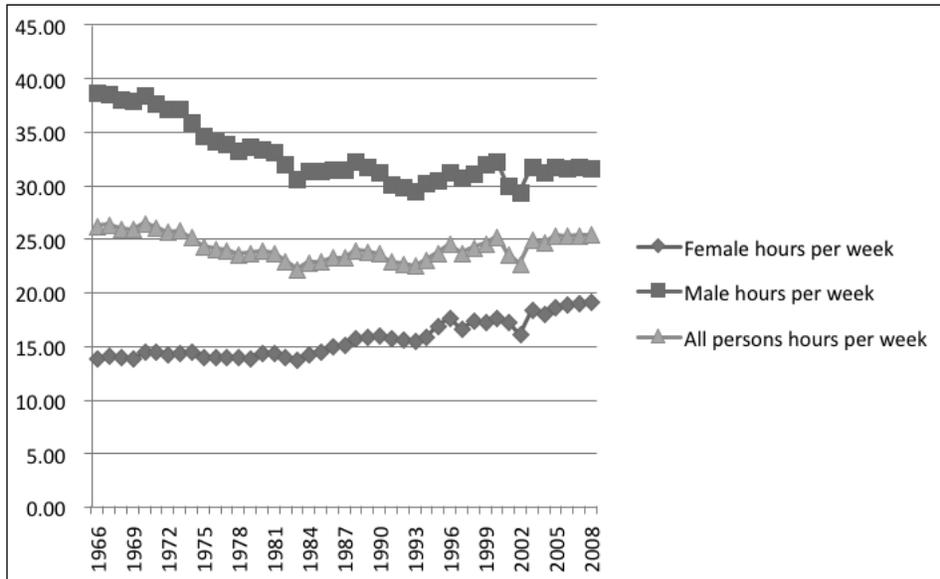
However, before we go further down this track, we need to focus on the core issue. Labour force participation rates tell us little, if anything, about actual time spent in paid work, yet they are commonly used as though they reflected a person's real workforce involvement. On the standard Australian Bureau of Statistics' (ABS) definition of labour force participation, a person is deemed to be participating in the workforce if he or she has been in paid employment or has been looking for paid employment in the week before the labour force survey is taken. By that definition a person could move from non-participant to participant status simply by taking a few hours casual work each week or merely by deciding to look for work. We need to distinguish between workforce participation and workforce activity. Workforce activity is a matter of the amount of work performed, and it can be measured by tracking hours worked each week. Luckily, the ABS publishes two sets of data relevant to this indicator.

<sup>5</sup> Regular LFP figures for married women have not been recorded since 2003. For a review of women's LFP trends, see Evans and Kelley, 2004.

## HAS THERE BEEN A REVOLUTION IN WOMEN'S WORK?

Firstly, there is ABS data on aggregate hours worked by men and women, in a series that goes back to 1966. In Figure 2 aggregate hours worked is divided by the population of workforce age (15 to 64), to give an average hours worked per week by men and women. (It is assumed that very little of the aggregate figure is contributed by workers over age 64.) I will refer to this as the 'hours worked' series.

Figure 2: Women's and Men's Average Weekly Hours Worked, 1966 to 2008



Sources: ABS *The Labour Force, Australia*, Cat. No. 6203.0, (various); ABS *Labour Statistics, Australia*, Cat. No. 6101.0 (various); Also collected in Foster and Stewart (1991); Reserve Bank of Australia. (1997); and ABS (2007), see "Population"; Table 1: Work, Table 1.

Figure 2 suggests that changes have been at least as marked for men as for women. In four decades, men's average weekly hours worked have fallen from 38.6 to 31.6, whereas women's have risen from 13.8 to 19.0. The convergence between the men's and women's trendlines is coming as much from the men's trend as from the women's. Women's hours as a proportion of all hours worked have risen from 26 per cent to 38 per cent, but this is as much explained by the decline in men's average hours as by the rise in women's hours. The men's trend has been level since 1982. The upward trend in women's work activity is steady but slow, growing at an overall rate of just over one hour per decade. More careful scrutiny shows that the trendline was flat from 1966 to 1982, and since then has been rising at a rate of 1.5 hours per decade. This rate would see women reaching men's present work levels in about the year 2100.

Our concern here is with the female side of this story. The labour force participation chart tells one story, the hours worked chart a much less dramatic one. In four decades since the mid-1960s, women's LFP rate has almost doubled (up from 33 per cent to 58 per cent), while women's hours worked have increased by about one-third (up from 13.8 hours per week to 19 hours per week). If we are measuring actual work activity, then the hours worked figures

indicates that there has been no radical change of the sort supposed by Snooks, Mackay and others.

Secondly, we have ABS time use studies, based upon diaries kept by large sample populations of persons aged 15 and over. Four such studies have been conducted by the ABS: in 1987 in Sydney; and in 1992, 1997, and 2006 Australia-wide (ABS, 1987; ABS, 1993; ABS, 1998; ABS, 2008).<sup>6</sup> Table One summarises the key evidence, comparing the time use data (TU) with the hours worked (HW) data.<sup>7</sup>

**Table 1: Male and Female Paid Work (Average Hours per Week): Comparing Time Use (TU) and Hours Worked (HW) Data**

	1987	1992	1997	2006
Men (TU)	30.9	28.5	27.4	28.7
Men (HW)	31.4	29.8	30.7	31.6
Women (TU)	14.7	13.4	13.8	14.1
Women (HW)	15.1	15.7	16.6	18.7
M-F Ratio (TU)	2.10	2.12	1.98	2.03
M-F Ratio (HW)	2.08	1.90	1.85	1.69

Sources: ABS *The Labour Force, Australia*, Cat. No. 6203.0, (various); ABS *Labour Statistics, Australia*, Cat. No. 6101.0 (various); Also collected in Foster and Stewart (1991); ABS (1988); ABS(2008).

Note: The time use figures include breaks and overtime, but not time spent travelling to and from work.

The time use figures for men show a very small downwards trend, at a time when the hours worked trend for men is flat. But for women the time use trend is flat, while the hours worked trend for the same period is slightly upwards. The ratio of male to female hours in the two data sets is almost identical in 1987, but subsequently the ratios diverge, with the hours worked ratio steadily falling, while the time use ratio remain flat. The time use studies suggest that in the period 1987 to 2006 men performed about two-thirds of all paid work, and women one third. They indicate no rising trend in women's work activity, and seem to leave no room for the revolutionary thesis.

It might be thought that a generational change is taking place but that its presence is emerging only very slowly in the average figures. Ideally, we would want a cohort analysis to track such trends. The time use figures do include some age-related data. Table Two shows that younger women in the age range 25 to 54 work about two hours per week more than women ten years older than them. Amongst older women (55-64) employment activity has increased sharply.

<sup>6</sup> There is an earlier time use study from 1974, conducted by the Cities Commission in Melbourne and Albury-Wodonga. Its comparability with the ABS studies is questionable. See Cities Commission, n.d.

<sup>7</sup> The hours worked figures are consistently higher than the time use figures, but that is to be expected, as the former is based on persons aged 15 to 64, whereas the time use figures cover all persons aged 15 and over, thereby including those who are in retirement. The larger time use divisor produces a lower average figure. Another slight distortion will arise from increased longevity. In the mid-1960s, average male longevity was 69 years and average female longevity 75 years. In 1987 it was 74 and 79 years respectively; today it is 79 and 84 years respectively. This increase will increase the time use divisor across time, and thus artificially reduce the average figure for paid work across time. However, the net effect of this distortion is small, depressing the 2006 figures by about 3 per cent.

Table 2: Women's Paid Hours per Week, by Age Group (hours)

	15-24	25-34	35-44	45-54	55-64
1992	17.8	18.4	19.5	19.3	6.5
1997	17.5	20.7	19.2	20.4	7.6
2006	15.9	22.0	21.2	23.0	13.9

Sources: ABS (1993), Table 15; ABS (1998), Table 29; ABS (2008), Table 7.

This is some evidence of a generational trend, though the time span here is not great and the trend is not dramatic, except in the older age range. A careful cohort analysis of these figures would be useful, but that cannot be attempted here.<sup>8</sup>

### Getting It Both Right and Wrong

Overall, then, the ABS hours worked figures show a general upwards trend in women's work activity, but the rise is slow and slight, while in the ABS time use figures the trend is flat. While commentators such as Mackay and Snooks have misconstrued the basic facts about women's work trends, there are two studies that do get the core trends right. One is a 2002 public lecture by economist Bob Gregory, who observes that:

Despite the rapid increase in education levels, despite large changes in social attitudes towards married women working in the labour market, despite large increases in labour market rewards and despite increased labour market involvement, the proportion of women 15 to 59 years employed full-time is much the same today as it was thirty-five years ago .... The overwhelming strategy has been to use part-time employment to add to the principal source of income which is delivered to women from a source outside their own full-time involvement in the labour market. (Gregory, 2002).<sup>9</sup>

Gregory's contention is correct, but it is based on figures for women's full-time and part-time work, and lacks any more fine-grained evidence of actual hours worked.

Somewhat earlier, in 1994, economists Deborah Mitchell and Steve Dowrick set out the labour force participation and the hours worked trends for both men and women from 1978 to 1993. They noted that LFP trends and hours worked trends (measured using the same sources as for Chart Two above) are 'rather different' for both men and women. On women's work, they say that "Despite the large increase in the numbers of women participating in the labour force, their contribution to total hours is still only half that of men." They note that in 1978 women aged 15-64 worked on average 14.2 hours per week, amounting to 29 per cent of all hours worked by men and women; in 1993 it was 16.4 hours per week, equal to 35 per cent of all hours worked. That is, in fifteen years there had been rather little increase in women's work activity. They then added: "In other words, the supply of labour by women outside the home is increasing but the potential supply is still substantially unused" (Mitchell and Dowrick, 1994: 4).

<sup>8</sup> The 1987 figures classify age ranges differently, and cannot be used for comparison purposes, though presumably the original data could be reclassified.

<sup>9</sup> Gregory's main point is noted in Manne 2006: 95. Figures showing the flat trend in women's full-time work rates since 1971 had already been published in ABS, *Social Indicators Number 5*, Table 5.4, 205.

Remarkably, despite this recognition of the small upwards trend in average hours worked, the remainder of their discussion is an attempt to explain why women's labour supply has been increasing. In their view, three factors largely account for this increase: "the rapidly improving access of women to full secondary and tertiary education", "decreased discrimination in both pay and employment", and "shifting patterns of demand towards the service sector of the economy" (1994: 1). These factors may be good explanations, but what is being explained? In their account the key concept of 'labour supply' is left hanging ambiguously between participation and activity, but a moment's reflection shows that supply cannot be equated with participation. If average hours worked falls then labour supply has fallen, even if participation has risen. And since in fact women's average hours worked have risen at most only slightly, women's labour supply has risen at most only slightly. Since the rise is at most a minor one, there is nothing much that needs explanation. Discussion of education, discrimination and the services sector is unnecessary. Somehow Mitchell and Dowrick fail to see what is obvious from their own figures. It is a nice case of the way in which perspectives shape perceptions.<sup>10</sup>

Mitchell and Dowrick also offer no defence of their claim that women's potential labour supply is still 'substantially unused'. Given their evidence, that is obviously true, if they mean unused in the paid workforce, but it may be false if they mean unused *simpliciter*. Measuring use involves measuring capacity. Women may be doing other kinds of work, and they may be at or near the limits of their working capacity (given the general standards of their time and place). The time use studies shed light on this. Total work activity counts time spent in paid work, domestic work, childcare, voluntary work, education, and shopping. The first three studies (1987, 1992, 1997) showed a close equivalence between men's and women's total work activities. The 1997 study reported that "Men and women spent almost the same average amount of time on total work (425 minutes and 432 minutes [per day] respectively)", a difference of seven minutes per day more by women than by men (ABS, 1998: 7, and Table 1, 17). The 2006 study presents a different picture. It found that men average 526 minutes total work per day and women 593 minutes, which adds up to about 8 hours more work per week by women (ABS, 2008: Table 4). Whichever of these stories is correct, overall women are not working less than men, so there are no grounds for thinking of them as relatively under-employed.

## Causal Stories

The core facts, then, are not what they are commonly taken to be. The overall story is clear enough: a markedly higher percentage of women are in paid work, but average hours worked have risen slightly and slowly (on the hours worked figures) or hardly at all (on the time use figures). We can sum this up by saying that paid work has been distributed more broadly and evenly across the female population. Consequently, the task for economists and social scientists is not to explain what Snooks called "the rush of female household workers to join the market workforce". Such a rush has occurred but it has added very little to women's average paid work activity. Rather, the problem to be explained is why work activity has not increased strongly. This is a problem not because it is difficult to square rising participation rates with nearly flat activity rates — that presents no great difficulty. The problem is how to reconcile the low or nil rise in activity with the plausible reasons we have for expecting activity to have risen strongly.

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<sup>10</sup> Bettina Cass (2002: 144) follows Mitchell and Dowrick's analysis of women's rising LFP, though without remarking on their recognition that the trend in women's hours worked has remained flat.

A number of hypotheses designed to explain a rise in women's work have been already mentioned. Rising levels of education, growing demand for work in the services sector, decreased discrimination against women as workers, removal of legal barriers against women's work, and the rise of feminist beliefs and attitudes will all — it seems reasonable to suppose — have tended to increase female work activity. Snooks makes a case for the claim that a strong postwar rise in the ratio of capital to labour has driven the labour market to seek out workers in the tertiary sector, where women have some comparative advantage over men (1994: 97-123). The steep decline in the birth rate must also have made work outside the home easier to combine with childcare responsibilities. Empirical support for at least some of these contentions is readily available. For example, a study by M.D.R. Evans (1988) showed the expected strongly positive correlation between, on the one hand, education and feminist orientation and, on the other, workforce participation. Evans showed also that the birth of children lowers workforce participation dramatically, from which we can assume that a drop in the birth rate would tend to raise work activity.

It would take us off the present track to attempt an evaluation of these various hypotheses. They may seem plausible enough. Yet the evidence of the present essay leaves us in the odd position of having good explanations for something that — if our focus is on work activity and not merely on workforce participation — has not happened to any marked degree. Faced with this, we can go in two very different ways. We can use the non-happening of the thing to be explained to discredit the would-be explanations; or we can accept the explanations as valid and postulate that some other factor or force must be operating to prevent the effect from following from the supposed cause. Neither move is particularly compelling. A good explanation remains a good explanation even if, on some particular occasion, it fails to be followed by the expected effect. Something might be blocking the usual mechanism. The sensible strategy is to look for the spanner in the works, and then, only when we are sure there is none to be found, give up the explanatory theory.

In this case, however, there is no compelling theory about what might be doing the blocking. Legal barriers to women's paid employment have fallen in the period. The only candidate that comes readily to mind is women's rising relative wage rates. A rise in the female/male wage ratio will of course increase female labour supply but — arguably — it will lower employer demand. The rise has been a large one, increasing from 0.55 in the 1930s to 0.93 in the 1970s, according to Snooks. He shows that it has stayed around that figure since that time (until 1990) (1994: 143; Table 8.16, 222). In his account of rising female labour market participation, Snooks constructed a regression model in which he tested the thesis that market participation might be a linear function of changing female wage rates relative to men's, of changes in the birth rate, and of change in the capital/labour ratio. Using data from 1946 to 1985, he found that, by itself, the capital/labour ratio could account for 98 per cent of the variation in female participation (1994: 88). This suggests that relative wage rates are a minor factor in LFP trends. Interesting though this is, the interest would be much greater if his analysis told us anything about work activity. Since LFP is very different from activity we cannot jump from Snooks' finding to any conclusions about activity trends.<sup>11</sup>

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<sup>11</sup> For a more recent analysis of the literature on female labour supply, see Birch, 2005. She emphasises the complexity of the subject — no simple or single factor predominates in determining women's labour supply.

One possible explanation of increases in women's paid work is simply that women today have on average one or two children fewer than women a few decades ago. They therefore have more time on their hands, and part-time work fills that time quite nicely. This is a neat explanation except for the fact that it can be so easily reversed: it is equally possible that women have fewer children because they are working more.<sup>12</sup> But what if women are not working much more today than they were in the 1960s? The last four decades have been the era of the baby bust. The fertility rate has fallen from 3.5 children per woman in 1961 to 1.8 today (ABS, 1992: Table 2.3.1, 54, and ABS, 2007: 1.) Yet women's average work activity is not much greater at the bottom of the baby bust than what it was at the height of the baby boom. Given this, then obviously the baby bust cannot be explained by increases in women's paid work. The interesting issue is why increased work does not follow much more strongly from such a marked reduction in fertility. No obvious explanation comes to mind. The birth rate trends simply make the whole problem more puzzling.<sup>13</sup>

Indeed we seem to have not even the beginnings of a plausible theory to make sense of the actual trends in women's work, largely because the actual trends have been misconstrued, owing to the failure to distinguish between participation and activity.

### **Possible Consequences and Implications**

Interpretations abound of the meaning and ramifications of these supposed trends, focused mainly on questions of women's identity and role and on secondary effects on the family. Hugh Mackay, for example, contends that the key change in recent Australian life is women's redefinition of their social role, arising mainly from their new participation in the workforce. Other social phenomena — female fatigue, eating out, out-of-home childcare, talk of 'quality time' with children, tension between spouses over housework, high divorce rates, male backlash, etc — are presented as a by-product of this re-definition. As with Mackay, so with many others: the story of women's entry into the paid workforce is no bare factual account. It is almost always told in such a way that it is made to seem charged with significance. The story centres on a core of supposed fact, which for many functions as an article of faith, one which tells us that the world really is moving forwards, and for others is a sign of decline, a movement away from the time-honoured order of the male provider and the female nurturer.

Post-sixties feminism has taken a number of forms, but one thing the various feminisms have in common is the doctrine that paid work is personally beneficial. For women with children the main alternative to paid work is life as a homemaker and parent. Many feminists have thought that paid work is a good thing partly because it can be challenging and interesting, but equally because it frees women from homemaking and childcare. In the past, this story supposes, women's talents have been dammed behind the wall of the family. Now the wall has been breached — by feminism, or technology, or market forces, or whatever — and those talents have been set free to energise the wider society. The story tends to leave family life in limbo, as a condition which has merely been left behind, when in reality many who accept the story also want family success of a fairly traditional sort.

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<sup>12</sup> This is how Snooks argues. On his account, rising female wages and marked increases in demand for female labour explain the decline in the other sort of female labour. His economic model, he claims, can explain '99 per cent of the change in family size' in the period 1946 to 1990. 'Hence the first great change in the size of the Australian household in a century ... can be explained virtually entirely in terms of fundamental economic forces' (1994: 68-69).

<sup>13</sup> A further complicating possibility is that some of the small increase of women's paid work hours is work that was previously done in the home. Housework has been to some degree commodified. What was once unpaid work is now low paid work.

The story is nothing if not familiar. But consider its photographic negative, as told by the conservative social commentator, B.A. Santamaria. As he saw it, four main factors work against the health and strength of the modern family: the divorce revolution, as facilitated by the Family Law Act; the sexual revolution, as commercialised by Hollywood and television; the rise of radical feminism in the bureaucracies, the media and the universities; and “the industrialization of married women by their progressive absorption into the paid workforce” (1995: 8-9). Of these four he believed the last of these to be the most powerful.

According to Santamaria, this absorption takes two forms: in one, a minority of educated professional women seek personal fulfilment in a career; in the other, a majority of working or lower middle class women are compelled into the workforce by the relative economic decline of families with children. In consequence of the second trend — not the first — “The strength of the family and its capacity to fulfil its various social functions rapidly broke down under the strain...” (1995: 11). That second trend is a product not of women’s free choices but of market forces, forces let loose by governments, employers and economic theorists, who saw an opportunity to drive down the wages of male breadwinners by forcing them to compete with women workers.<sup>14</sup> Santamaria supports his account with evidence of economic polarisation, using taxable income figures said to show that the middle is being squeezed out by the rapid growth in the proportion of higher and lower income types. The failure, under pressure, of the modern family is evidenced by rising levels of divorce, sole parenthood, unemployment, youth suicide, and sexual abuse of children in non-standard family types. Behind his story lies an assumption about the importance of the ‘biological’ family.

We have, then, two main story types, feminist and conservative, sharing a single account of the workforce trends and agreeing that those trends are hugely important, but seeing very different implications in them. It is easy to lose sight of their central assumption — that women have been undergoing progressive ‘industrialisation’. On the work activity evidence, both feminists and conservatives are arguing from a crucial false premise. Whatever gains or losses women have made or the family has incurred, none can be accounted for by the general work trends. The point can be generalised: there are no recent social changes, good or bad, which can be explained by a general growth in women’s paid work activity, for the simple reason that there has been very little such growth.

Two commentators, Hugh Mackay and Anne Manne, combine elements of feminism and conservatism in interesting ways. Mackay’s position is far less black and white than the typical feminist and conservative accounts, but it turns on exactly the same axis. On his view the family is being redefined, in ways involving both gain and pain. This redefinition follows from women’s self-redefinition, but in a somewhat complex way:

It is probably true that much of the present instability in Australian family life springs from changes in the role and status of women, but not in the simplistic way often assumed by those who try to forge a direct causal link between the working mother and the unstable family. The real connection is far more subtle than that: it has to do with the fact that women’s roles have become much less easy to define and, as a result, the transition from being a girl to becoming a mother appears to be a more demanding, more confusing, more complex and more painful transition than it was for previous generations of women. (1993: 65-66).

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<sup>14</sup> On the central importance of market forces as drivers of workforce change, Santamaria (1995) and Snooks (1994) are in agreement; Uhlmann (2006), however, argues that there is a two-way interaction between market forces and the gendered structure of the household.

Today’s grandmothers generally followed a single path: school, work, marriage, children, retirement. Then came what Mackay calls the “pioneering generation of working mothers” who broke this mould (1993: 47). Younger women today play multiple roles which “tend to diminish the relative significance of each one of those roles”. “They are so used to making choices — and to the idea of staying flexible — that the inflexible and irrevocable reality of parenthood comes as something of a shock”. This makes them “much more ambivalent about mothering and [much more] flexible about the nature of family life than their own mothers were” (1993: 67-68).

Unfortunately, Mackay’s ‘pioneering generation’ is difficult to locate in the work activity evidence. No doubt there was a generation of women in the 1970s who pioneered new ways of thinking about work and its relation to personal identity. But Mackay’s account requires widespread changes in work behaviour (the exercising of real choice), not just in ways of talking about work, if it is to explain family change or anything else. That evidence is lacking.

Manne’s main concern in *Motherhood* is that the rise of women’s work has led to the loss of parental time with children, but she also places strong emphasis on the gains women have made in the workforce. Many who support the revolutionary thesis do so in part because they favour the liberation of women from the home. Others accept the thesis but, like Manne, worry that increases in women’s paid work are tending to take time and energy away from children’s nurture. Since the general trend for women’s paid work is rising only very slowly, this concern could be justified only if the trend for mothers work is quite different from that for women in general. The ABS hours worked data tell us nothing about the paid work of parents of dependent children, but the 1987, 1992 and 1997 time use surveys include comparisons between sole mothers, married fathers and married mothers.

**Table 3: Paid Work, Hours per Week: Couples and Sole Mothers with dependent Children 0-14**

	1987			1992			1997		
	Married mothers	Married fathers	Sole mothers	Married mothers	Married fathers	Sole mothers	Married mothers	Married fathers	Sole mothers
<b>Hours per week</b>	13.7	47.0	11.6	12.7	42.9	13.8	15.6	42.0	13.7

Sources: ABS (1988), Table 1.6; ABS (1993), Table 22; ABS (1998), Table 10.

Note: The 2006 time use study does not include figures on married couples and sole parents.

Here the twenty-year trend shows a small rise in married mothers’ hours worked, and a small fall in married fathers’ hours worked. In general married fathers do about three times as much paid work as their partners. Married mothers work about the same hours per week as the average for all women, while married fathers work much more than the average for all men (about 42 hours per week, compared with about 28 hours per week). The figures for sole mothers show a small upward trend, much like that for married mothers.<sup>15</sup>

<sup>15</sup> Time use figures on sole fathers are available but are not likely to be reliable.

The time use figures in Table Three — which is the best evidence we have — do suggest a weak tendency towards reduced maternal time with children. But two further factors need to be taken into account. Firstly, as already noted, the birth rate has fallen sharply in the post-1965 period, so increases in mothers' paid work may simply be occupying time freed up by that fall. And, secondly, as Table Three shows, fathers' time available for children has increased more than women's time has decreased, so children today may enjoy a net increase in parental time compared with 1987. Looking as far back as the evidence will take us (1987), we can find no general trend showing children being cast aside by their work-obsessed parents. Once again, the revolutionary thesis — this time in its conservative version — is contradicted by the evidence.<sup>16</sup>

## Conclusion

As this discussion has illustrated, social trends can be interpreted in diverse ways. There is a feminist interpretation and a conservative interpretation of women's supposed work trends, and there are also hybrid interpretations such as those put forward by Mackay and Manne. And, of course, one cannot win any arguments about the merits of a trend merely by citing the trend — history may be progressing or it may be retrogressing. What is surprising is the remarkable consensus between proponents of quite opposed interpretations about the basic direction of the trends. Although two studies — those by Mitchell and Dowrick and by Gregory — have supplied good grounds to question the consensus, those studies have largely gone unheeded.

Australia is fortunate in having good ABS figures on hours worked, going back to 1964, and, since 1987, good time use studies. This paper has attempted to bring this important evidence into focus. The main theses of the paper are, firstly, that female work patterns have changed much less in recent decades than is commonly thought, and, secondly, that since this is so, general trends in women's work behaviour cannot be used to explain other social phenomena. It remains possible that significant changes are taking place in some sections of the female population (for example, amongst some professionals), even while the overall pattern is stable, but this has to be treated as no more than conjecture. New evidence will need to be brought forward before we can be confident of any such trends or effects.

The methodological moral of the story is that labour force participation figures are not a reliable guide to workplace trends. As Catherine Hakim put it back in 1993, the "headcount approach is not well suited to women's work histories with long spells in permanent part-time jobs, repeated movement in and out of the labour force, seasonal and casual work, and jobs taken as and when they are available" (1993: 108). Both popular belief and academic theory have generally assumed that economic change (structural adjustment, increased international competition, microeconomic reform, the rise of the services sector) and social change (women's liberation from the home) impact on women's work rates, and that LFP figures are a reliable index of this impact. These assumptions need to be questioned. The LFP rate is not a reliable index, and more reliable indicators show that these background changes have had little impact across time on women's paid work activity.

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<sup>16</sup> The situation of children of sole parents may be different. In general, sole mothers have slightly fewer children than married mothers and tend to have a little less paid work, so they will normally have more time available to spend with their children. But of course the children of sole parents are likely to get less total parental time owing to the absence of a resident second parent.

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## HAS THERE BEEN A REVOLUTION IN WOMEN'S WORK?

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# A Comparative Assessment of Australian Student Visa Policy



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Following recent falls in international student commencements in Australia, there has been a renewed call for a revision to student visa policy. In response to this discussion the Commonwealth Government established the Knight Review of the Student Visa Program in December 2010. This paper discusses several policy options following a comparative analysis of student visa systems in Australia, the United States, the United Kingdom, Canada and New Zealand. The underlying finding is that Australia's student visa system is more complex, more costly and imposes greater financial obligations on international students and their families than comparable countries. Australia could benefit from an overall simplification of its student visa system, including a streamlining of the number of visas available to students and a reduction in the stringency of the tests applied in regard to financial capacity and proof of funding. In addition, attention should be paid to post-study employment options under the student visa system and the nexus between higher education attainment and immediate work options.

Over the course of 2009-10, the Department of Immigration and Citizenship (DIAC) announced a series of changes to Australia's student visa program with a view to tightening eligibility requirements and ensuring systemic integrity.<sup>1</sup> These changes were a response to perceived abuse of the program by certain private colleges, in particular the use of certain vocational courses as a backdoor method of achieving permanent residency, as well as wider public debate about population targets and the level of immigration to Australia. Measures taken included tightening the level of assessment for certain countries as well as increases in the mandated basic rate of living costs for a student which had the effect of increasing the up-front financial requirements for applicants. Further, in February 2010, DIAC announced changes to the General Skill Migration (GSM) program and in May to the Skilled Occupation List (SOL) which also affected post-study options for future students<sup>2</sup>. These culminated in November 2010 with the announcement of a new points test to assess independent skilled migrants.<sup>3</sup>

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\* This paper is based on research funded by the Australian Technology Network (ATN). The authors would like to acknowledge the support of Vicki Thomson at the ATN. They would also like to thank Sue Rowlands, Simon Bruce and Racquel Shroff of IDP Australia for their time in providing information and advice on this issue and for the provision of their presentation 'International Trends in Visa Grants: A lead indicator for future enrolments'. We would also like to thank Professor David Wood and Professor Simon Ridings at Curtin University for their assistance. The usual disclaimer in regard to authorship applies.

1 Department of Immigration and Citizenship (2010), 'Student Visa Program Integrity Measures 2009-10, available at: [http://www.immi.gov.au/students/\\_pdf/students-integrity-measures.pdf](http://www.immi.gov.au/students/_pdf/students-integrity-measures.pdf)

2 Birrell, B and E Healy (2010) 'The February 2010 Reforms and the International Student Industry' *People and Place* 18(1) pp. 65-80.

3 DIAC lists these and other changes on its website, 'What's New? Recent Changes in General Skilled Migration', available at: <http://www.immi.gov.au/skilled/general-skilled-migration/whats-new.htm> (viewed 17 November 2010).

Partly as a consequence of these changes and other factors such as the higher Australian dollar, there was an overall contraction in the number of international students seeking to study in Australia, the first such retrenchment in over a decade.<sup>4</sup> This has led to calls for a policy response from government, including changes to the student visa system to ensure comparability with visa systems in competitor countries.

In response to such calls and more general concerns, the Minister for Immigration and Citizenship, Chris Bowen MP, and Minister for Tertiary Education, Skills, Jobs and Workplace Relations, Senator Chris Evans jointly announced in December 2010 the creation of an inquiry into the system by former New South Wales Labor Minister, Michael Knight AC. The report is due by the middle of 2011.<sup>5</sup>

A significant point of contention in this debate is the extent to which Australia's student visa system conforms with or diverges from systems in other countries. To further inform this debate, this paper provides an overview and comparison of student visa systems in five countries – Australia, the United States (US), the United Kingdom (UK), Canada and New Zealand – with a view to making recommendations as to how the Australian system might be modified in specific relation to higher education in Australia, in view of practice elsewhere. Before doing so, we will look at recent developments in international education in Australia. Recent Trends in International Higher Education in Australia.

## Recent Trends in International Higher Education in Australia

Motivating the discussion surrounding student visa policy is the increasing importance of international education to Australia. The sector is an Australian export success story. From a small base it has now become Australia's third largest export sector behind coal and iron ore, and is the largest service export sector in the economy, worth around \$19.1 billion in 2010.<sup>6</sup> There has been rapid growth in recent years in the sector (see Table 1), with student numbers increasing by 80 per cent over the five years to 2010 (to November). Growth has been distributed across the sector (except Schools), with both the VET (252 per cent) and ELICOS (73 per cent) segments experiencing especially rapid growth since 2005. The higher education sector has seen 35 per cent growth in enrolments between 2005 and 2010, coming off a larger and more established base.

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<sup>4</sup> For a discussion of recent trends and future prospects, see Phillimore, J and P Koshy (2010), *The Economic Implications of Fewer International Higher Education Students in Australia*, A report to the Australian Technology Network (ATN), available at: [http://www.atn.edu.au/newsroom/Docs/2010/August\\_2010\\_Economic\\_implications\\_of\\_fewer\\_international\\_higher\\_education\\_students\\_in\\_Australia.pdf](http://www.atn.edu.au/newsroom/Docs/2010/August_2010_Economic_implications_of_fewer_international_higher_education_students_in_Australia.pdf)

<sup>5</sup> Minister for Immigration and Citizenship (2010), 'Review of the student visa program', available at: <http://www.minister.immi.gov.au/media/media-releases/2010/cb10089.htm>

<sup>6</sup> Australian Education International (AEI) (2011) *Export Income to Australia from Education Services in 2009-10*, available at: [http://aei.gov.au/AEI/PublicationsAndResearch/Snapshots/2011011401\\_pdf.pdf](http://aei.gov.au/AEI/PublicationsAndResearch/Snapshots/2011011401_pdf.pdf).

TABLE 1: International Onshore Student Enrolments, By Sector, 2005 to 2010 (November)

Sector	2005	2006	2007	2008	2009	2010	Growth %
Higher Education	162,688	169,591	174,254	181,392	203,324	219,184	35 %
VET	65,580	82,532	119,646	174,558	232,475	230,799	252 %
ELICOS	64,556	76,855	101,961	126,785	135,141	111,672	73 %
Schools	25,093	24,471	26,764	28,308	27,506	24,278	-3 %
Other	26,248	26,426	27,299	30,123	31,472	31,238	19 %
<b>Total</b>	<b>344,165</b>	<b>379,875</b>	<b>449,924</b>	<b>541,166</b>	<b>629,918</b>	<b>617,171</b>	<b>79 %</b>

Source: Australian Education International (AEI) (2011)<sup>7</sup>

Such growth has provided increased income for higher education institutions. Figures on Australian higher education provider finances for 2009 from the Department of Education, Employment and Workplace Relations (DEEWR) show that the revenue item 'Fee Paying Overseas Students' was equal to \$3.4 billion and accounted for 16.7 per cent of all revenue from continuing operations (\$20.4 billion).<sup>8</sup> While a proportion of this is from offshore operations, it does indicate the importance of international students to the sector. This revenue enabled them to expand opportunities for all students and devote resources to research activity.

However, a combination of factors in the past 18 months has put the international education sector under pressure. As Universities Australia (UA) puts it, "we are faced with a 'perfect storm' of factors coming together to threaten Australia's position as a preferred destination for an educational experience".<sup>9</sup> The factors cited by UA and others include:

- A stronger Australian dollar;
- The impact of the global financial crisis on demand for places;
- Increased competition from other countries seeking international students, in particular the USA;
- Reputational damage caused by highly publicised attacks on international students;
- The collapse of some private colleges;
- Significant changes to student visa rules and skilled migration; and
- The 2010 federal election campaign discussion of immigration and population issues.

These factors have had the effect of slowing or reducing international student enrolments, with prospects of more to come. The effects of policy-induced changes to student visas and skilled migration, the most important of which came into effect only quite recently, are likely to

<sup>7</sup> AEI (2011), *op.cit.*

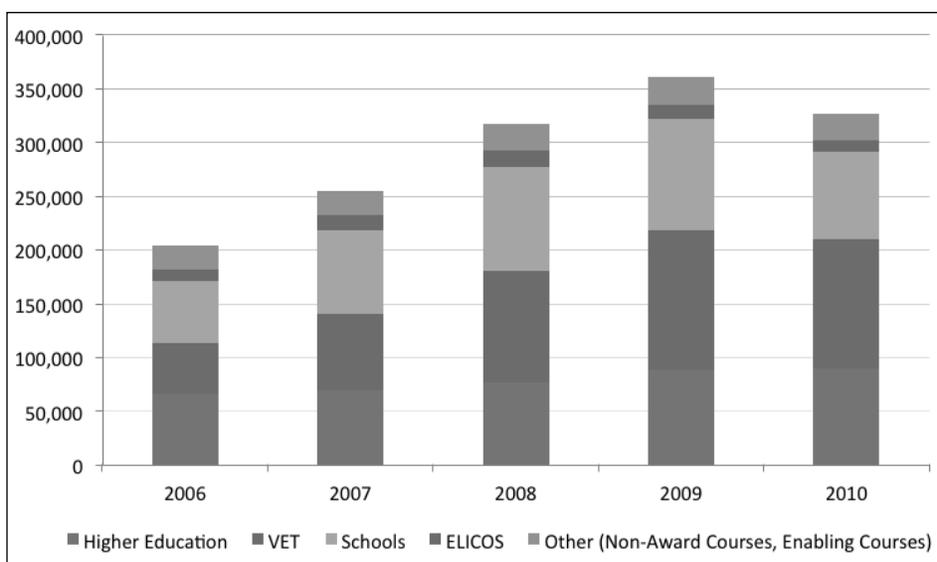
<sup>8</sup> Figures derived from Table 1 in DEEWR (2010) *Financial Reports of Higher Education Providers 2009*, <http://www.deewr.gov.au/HigherEducation/Publications/FinanceReports/Documents/Finance2009.pdf>

<sup>9</sup> Universities Australia (2010) 'Balanced migration policy, not a 'Fortress Australia'', Media Release No. 13/10, 27 July.

be only seen in the coming months. The most recent commencement data from Australian Education International (AEI) for the year-to-date to November 2010 show a decline in overall commencements in the onshore international sector of around 9.3 per cent on a year on year basis.

While higher education was still trending upward with commencements to November 2010 of 90,310, up 2.35 per cent on the 2009 equivalent figure of 88,234, the other three key sectors have all seen a marked decline in enrolments: VET commencements to November 2010 were at 119,356, down by 8.17 per cent; Schools at 10,895, down by 15.84 per cent; and ELICOS at 81,778, down by 21.27 per cent from November 2009.

**FIGURE 1: International Onshore Commencements Data, By Sector, Year-to-Date, November 2010**



Source: AEI (2010)<sup>10</sup>

There is further evidence from other sources indicating that the higher education sector will see a weakening in international student enrolments over the latter half of 2010 and a decline in 2011. According to DIAC, grants for the higher education visa (the 573 visa) declined in 2009-10 to 118,541 grants, a decrease of 11.5 per cent on 2008-9 grants of 133,990. Almost all this decline can be accounted for by a huge decline in the number of visa grants to higher education students from India (from 27,717 in 2008-09 to 10,988 in 2009-10 – a fall of almost 17,000). It should also be noted that the critical category in this regard is that of offshore grants, which declined to 68,247 grants in 2009-10 from 90,859 grants in 2008-9, a fall of 24.9 per cent. Again, this was largely the consequence of a decline in Indian applications.

Offsetting this change somewhat was the relatively healthy outcome for the postgraduate research visa, the 574 visa, where grants rose from 8,354 in 2008-9 to 9,301 in 2009-

<sup>10</sup> AEI (2010) *Market Information Package*, Pivot Table (November 2010).

10, an increase of 11.3 per cent. Overall, combined onshore and offshore grants for higher education visas fell by around 10.2 per cent in the 2009-10 program year.

TABLE 2: Combined Onshore and Offshore Grants for the 573 ('Higher Education') and 574 ('Postgraduate Research') visas

	573 Visa	574 Visa	Total Higher Education
<b>Combined Onshore and Offshore Grants</b>			
2008-09	133,990	8,354	142,344
2009-10	118,541	9,301	127,842
% change	-11.5 %	11.3 %	-10.2 %
<b>Offshore Grants Only</b>			
2008-09	90,859	5,278	96,137
2009-10	68,247	5,372	73,619
% change	-24.9 %	1.8 %	-23.4 %

Source: DIAC (2010) <sup>11</sup>

Players in international education – particularly in the key higher education sector – have demanded some response from government. Primarily this call has centred around student visa policy and the ongoing impact of changes in this area on student numbers, as one of the few factors affecting international enrolments directly within government control. The other, the management of quality accreditation of private colleges, has already been dealt with through a review of the *Education Services for Overseas Students (ESOS) Act 2000* (the Baird Review).<sup>12</sup>

## Student Visa Systems in Australia and Overseas

To better understand how Australia's visa system compares with other countries involved in international education, we undertook a comparison of the student visa systems of Australia, the United States (US), United Kingdom (UK), Canada and New Zealand (NZ). These countries were chosen because the first four together account for 45 per cent of the international student market<sup>13</sup>, while New Zealand was also included because of its geographical proximity to Australia and key source markets. Details on the visa systems were obtained by analysis of the websites of the immigration departments of each country. The specific features selected for comparison were the cost of a visa; financial requirements; the evidence required to be shown about these requirements; standard visa processing times; work allowance rules for students once they are in the host country; and post-study work and residency conditions. Appendix 1 provides summary data and references for each point of comparison across the five countries.

<sup>11</sup> Department of Immigration and Citizenship (2010), *Student Visa Statistics*, 'Offshore and Onshore Grants Combined,' various, available at: <http://www.immi.gov.au/media/statistics/study/>

<sup>12</sup> Review of the *Education Services for Overseas Students (ESOS) Act 2000*, available at: [http://www.aei.gov.au/AEI/GovernmentActivities/InternationalStudentsTaskforce/ESOS\\_REview\\_Final\\_Report\\_Feb\\_2010\\_.pdf](http://www.aei.gov.au/AEI/GovernmentActivities/InternationalStudentsTaskforce/ESOS_REview_Final_Report_Feb_2010_.pdf)

<sup>13</sup> Wood, John (2010) 'Internationalisation in a globalised context – challenges, rewards and the rise of the 'student customer' Presentation to Plymouth Conference, 30 June 2010.

## Australia

Australia does not have a universal student visa, but issues specific sub class visas at each level of education. The relevant sub class visas for higher education are *Sub Class 573 (Higher Education)* and *574 (Postgraduate Research)* visas, with the VET, ELICOS and school sectors having separate visa subclasses.<sup>14</sup> Australia is also somewhat unique in having an 'assessment' system consisting of different levels across country and levels of study.

Visa Cost: Both visas cost A\$550.

Financial Requirements: Australian regulations are particularly specific in regard to the costing and conditions of financial requirements. Applicants for the 573 and 574 visas must declare that they have enough money to pay for travel, tuition and living expenses for themselves, their partner and dependent children for the *duration of their stay in Australia*. They must also have enough money to support their partner and dependent children, even if they do not travel with the applicant to Australia.

For instance, in the case of a single student undertaking a three year business undergraduate program, the minimum requirements for this sub class visa assessment level would include:

Travel: Applicant's return air fare to Australia.

Tuition Costs: Course fees for applicant, which can be around A\$30,000 per annum.

Living Costs: A\$18,000 per year.

Total: Around A\$48,000 per annum or A\$144,000 over the duration of the entire three year course.<sup>15</sup> (Note that costs are even higher for students with a spouse and/or children. Students must cover living expenses for both, plus annual schooling costs of A\$8,000 per school-aged child).

On this basis, single applicants need to demonstrate financial resources of around A\$144,000.

Evidence of Funds: Students need to demonstrate that they can cover the total course costs of \$144,000 for a typical three year bachelor's degree before they are issued with a visa. The level of evidence required to prove this level of financial preparedness depends upon DIAC's assessment of risk associated with a given country for the particular visa class being sought. This is measured by 'Assessment Levels' which rise with from 1 to 4, with Level 1 being assessed as relatively low risk in terms of common immigration parameters (e.g., breaching terms of the sub visa) and Level 4 being a higher risk.

In the case of a student seeking to obtain a 573 visa from a Level 1 country such as Singapore or Malaysia, financial support can be sourced from anywhere to provide for financial

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<sup>14</sup> Other visas include: 570 (Independent ELICOS), 571 (Schools) and 572 (Vocational Education and Training).

<sup>15</sup> Tuition costs vary by university as well as by course type and length. For a three year bachelor degree in commerce, fees at Australian universities are typically between A\$18,000 and A\$30,000 pa. In some universities, fees for courses in science and engineering are greater, while medical fields are normally quite a deal higher. Based on tuition costs of A\$30,000 pa for a three year course, the financial requirement to obtain a student visa (including living expenses of A\$18,000 pa) is A\$144,000.

resources over the full period of study for the applicant and any accompanying dependents. Only Applications from Level 1 countries can be lodged online, with recent changes granting exceptions to China, India, Thailand and Indonesia.

In the case of a student applying from a country that is assessed at Level 4 the level of proof required is substantially more onerous. Money must be deposited with an *approved* financial institution and must have been held for at *least six consecutive months* immediately before the date of the visa application, which in practice could amount to eight to nine months if assessment times are taken into account. Proof of funding must include the source of funds, be it from family, government or sponsoring agencies.

Processing Times: Processing times for applications for higher education sub class visas range from up to 14 days for Assessment Level 1 countries to 90 days for Level 4 countries.

Work Allowances: Since 26 April 2010, students require permission from DIAC to seek work while they study. Students can work for up to 20 hours a week when their course is in session and for unlimited hours during scheduled course breaks. Work associated with formal course compliance or voluntary work is not included in the 20 hour limit. Australia's system is generally less restrictive in terms of spouse/partner working conditions than is the case for the other countries surveyed.

Post-study work and residency conditions: Post-study work requires a new visa, either via a work visa or a permanent residence visa directly linked to their completion of studies. Students can apply for a variety of visas including: *Skilled Independent (Residence) Visa (Subclass 885)*; *Skilled Sponsored (Residence) Visa (Subclass 886)*; *Skilled Regional (Residence) Visa (Subclass 887)*; *Skilled Regional Sponsored (Provisional) Visa (Subclass 487)* and *Skilled Graduate (Temporary) Visa (Subclass 485)*.

### United States

The US has a stand-alone student visa, the F-1 visa, which covers students attending higher education institutions at any level. The F-1 visa is granted for up to five years in most cases (in the case of students from China, it is for one year only) and can be extended further for the duration of study. The US also has the M-1 visa for students undertaking vocational courses. The number of M-1 visa holders is quite small.

Visa Cost: US\$140

Financial Requirements: The US system relies upon financial evidence being collected at the institutional level (i.e. by universities). Financial evidence must show that the applicant or their family/sponsors have sufficient funds to cover tuition and living expenses during the period of their intended study. This is declared on the Department of Homeland Security's I-20 Form which is filled out as part of a student's application to their chosen institution.

Required financial resources will depend upon the tuition and board costs for the applicant's college, *but must be demonstrated for one year*.

Typically, one year's board and tuition is around US\$40,000 (A\$40,500).

Evidence of Funds: Evidence of funds in the US system focuses on proof of capacity to pay rather than proof of source. Admitted evidence includes: income tax documents and original bank books and/or statements and/or business registration, licenses, etc., and tax documents, as well as original bank books and/or statements.

Processing Times: Visa waiting times are substantially reduced in the US system, in part because of the reduced requirement to provide evidence of financial capacity but also because of the level of data collected by institutions. Typically, waiting times for the F-1 student visa range from one day in Singapore to 6 days in China (Shanghai).

Work Allowances: Students can only work on campus in the first year of enrolment. Thereafter, they can work off campus in a capacity related to their studies, subject to approval by the Designated School Official (a person authorised to maintain Student and Exchange Visitor Information System (SEVIS)) and the US Citizenship and Immigration Service (USCIS), and where they meet one of three criteria:

- Curricular Practical Training (CPT);
- Optional Practical Training (OPT) (pre-completion or post-completion); and
- Science, Technology, Engineering, and Mathematics (STEM) Optional Practical Training Extension (OPT)

Work is limited to 20 hours a week during courses (although allowances can be made where hardship is demonstrated) and up to 40 hours a week during scheduled breaks.

Post-study work and residency conditions: An F-1 visa allows a student to remain in the US for an additional 60 days after their nominated course has been completed. This allows for the commencement of Optional Practical Training (OPT) which can extend to one year. In addition, OPT can be extended by an additional 17 months in the case of students with qualifications in Science, Technology, Engineering or Mathematics (the so-called 'STEM' areas). Thereafter, students may apply for temporary or permanent visas, including employment-based visas and temporary visas such as the H1-B and the O-1 visas.

## **United Kingdom**

The student visa in the UK is the Tier 4 visa.

Visa Cost: £220 (A\$354)

Financial Requirements: Applicants for the Tier 4 visa need to accrue 40 points in total. Of these 30 points are attributable to the provision of a Confirmation of Acceptance of Studies (CAS) document, an online document provided by an approved sponsor (higher education institution). The last 10 points are awarded upon the satisfaction of the maintenance funds requirement.

The maintenance amount for the main applicant is calculated at: £800 per month for applicants intending to study in the Inner London Boroughs; and £600 per month for those intending to study elsewhere.

Maintenance must be demonstrated as follows:

For courses of up to 9 months duration: The full tuition fee plus the appropriate monthly amount for each month in the UK.

For courses over 9 months: The first year of the tuition fees plus either £7200 or £5400 depending on whether they intend to study inside or outside of the Inner London Boroughs. Tuition fees for international students are around £9,300 per annum for classroom-based courses.

On this basis, the cost calculated for the first year of a classroom undergraduate course (tuition and board) outside London is typically around £14,700 (A\$23,667).

Evidence of Funds: Funds must be held in the applicant's personal bank account or that of their parent(s)/legal guardian's bank account for a consecutive 28 day period (finishing on the date of the closing balance) and ending no more than one month before their application.

Processing Times: Processing times for the Tier 4 visa are typically up to 30 days for most countries.

Work Allowances: Under the Tier 4 (General) visa, students in foundation degrees may only work for up to 20 hours per week.

Post-study work and residency conditions: Students can remain in the UK for a full 4 months after the completion of their course for courses of more than 12 months in duration. Thereafter, they can pursue a range of immigration options in the UK, including the most immediate option of a Tier 1 (Post-study work) visa.

## Canada

The student visa in Canada is the Study Permit.

Visa Cost: C\$125 (A\$124)

Financial Requirements: Applicants are required to demonstrate financial capacity to cover tuition and living costs for a 12 month period. For a single student tuition costs are assessed to be C\$10,000 for a 12 month period or \$833 a month (these are 10 per cent higher in Quebec). Tuition fees for international students are around C\$15,500 per annum.

On this basis, the typical level of funds required to obtain the Study Permit is around C\$25,500 (A\$25,310).

Evidence of Funds: Evidence is required to prove that the applicant can support themselves and accompanying family members while they study in Canada. This may include: proof of a Canadian bank account in their name with money transferred to Canada; the applicant's bank statements for the past four months; a bank draft in convertible currency; proof of payment of tuition and residence fees; and – for those with a scholarship or those with a Canadian funded educational program – proof of funding paid from within Canada.

No proof for the source of funding is required.

Processing Times: Around 71 per cent of applications for the Student Permit are processed in less than 28 days, with 14 per cent in 2 days or less.

Work Allowances: Canada has the strictest work rules for higher education students in this group of countries. Full-time students in Canada (contact hours greater than 15 hours a week) are generally not allowed to work while studying. The exceptions to this ruling are where a student can demonstrate that work carried out is essential or integral to their course; employment relates to an approved research or training program; or they are temporarily destitute through circumstances beyond their control.

Post-study work and residency conditions: Students may work for a maximum of one to two years following conclusion of their study in an area of employment relating to their course. The application for a work permit must occur within 90 days of the student receiving their marks.

### **New Zealand**

The New Zealand visa is known as the Study Visa/Permit.

Visa Cost: US\$150 (A\$152)

Financial Requirements: Applicants need to demonstrate financial capacity. If they have a guarantor, usually a public funding institution, they are simply required to fill out a form (Financial Undertaking for a Student) and include this with their application form. Where students do not have a guarantor, for stays of less than 36 weeks, applicants need to provide evidence of funds of NZ\$1000 for each month of study and for stays of 36 weeks or more, applicants need to provide evidence of NZ\$10,000 for each year of study.

This equates to around NZ\$30,000 (A\$22,915) for a three-year degree.

Evidence of Funds: Applicants only need to prove the existence of funds, rather than confirm funding sources. Acceptable evidence of funds includes photocopies of: travellers' cheques; bank drafts; letters of credit; and bank statements in the applicant's name, going back at least three months.

Processing Times: Within 14 days, NZ Immigration will either provide a decision, or tell applicant how long the processing time is predicted to be.

Work Allowances: Students are allowed to work up to 20 hours a week during the academic year. They can work unlimited hours at the end of the academic year during the Christmas and New Year break.

Post-study work and residency conditions: At the completion of their studies, overseas students in New Zealand can apply for temporary work visas. These are visas released under either the:

*Graduate Job Search Policy*, where students can apply for a 12 month temporary work visa after they finish their qualification to work in unrelated areas while they seek employment in occupations directly related to their qualification. Students must apply for this visa within

three months of the end date of their student visa and be able to demonstrate financial resources equal to NZ\$2,100; or

*Study to Work Policy*, where a visa is valid for either two years, to enable students to obtain practical experience relating to and suitable for, their New Zealand qualification, or three years if they are working to obtain professional recognition from a New Zealand professional association. Students need to apply for a visa under this program no later than three months after the end date of their study permit. They must be able to demonstrate evidence of an offer of employment in an area of expertise related to a three-year qualification.

### Comparing the Five Countries

The data indicate Australia is distinguishable from the four comparators in five respects.

First, Australia's student visa system is substantially more segmented than other systems, with two sub class visas for higher education in addition to sub class visas for other areas (schools, vocational and ELICOS). In contrast, each of the four comparators has a single student visa for higher education which is applicable regardless of course level – although the USA also has a separate visa for the relatively small number of vocational education-only students.

Second, at \$550, the Australian student visa is more expensive, costing almost A\$200 more than the next most expensive visa (the UK, at A\$354). The US, Canada and New Zealand charge between A\$124 and A\$152 for their visas.

Third, the financial requirements for obtaining an Australian student visa are substantially greater than those in the comparators and the regulations surrounding them are much more prescriptive. Applicants to Australia are required to provide evidence of funding to cover tuition and living expenses over their entire course, equal to around A\$144,000 for a three year course. By way of comparison, among the four comparators, students only need to demonstrate a financial capacity in regard to some combination of the *first* year's tuition and some assessment of their living costs. In the US this is equivalent to one year's board and tuition at a sponsoring institution, equal to around A\$40,500. In the UK and Canada, this equates to A\$23,667 and A\$25,310 respectively using reasonable assumptions about tuition and living costs. New Zealand has the simplest assessment system of NZ\$10,000 per annum or NZ\$30,000 (A\$22,915) for a typical three year degree.

Fourth, and corresponding to the above, much of the collection of this information occurs at the institutional level in the four comparators, with 'sponsoring' institutions reporting on student's financial viability in the US, and a mix of tuition fees and standard living allowances being used in the UK, Canada and New Zealand. In Australia, this information is collected by the Department of Immigration and Citizenship. Australia is unique in having an application processing that is dependent on differentiated assessment levels for individual countries (Assessment Levels 1 to 5) and of different course types (schools; higher education; postgraduate research). Such differentiation of source countries into 'tiers' is not present in the comparator countries.

Finally, three of the four comparator countries (UK, US and Canada) report statistics on student visa processing on a country-by-country basis, while NZ and Australia have stated

goals about processing times in general. Australia's stated goals for processing tend to be longer than for those in other countries, particularly in regard to Assessment Level 3 and 4 countries such as India and China.

There are two commonalities between Australia and the reference set of countries. First, all countries have relatively strict conditions under which students can work. With the exception of Canada, they limit work time to no more than 20 hours a week during the academic session. In Canada, work restrictions are even tighter. Students have to demonstrate a requirement in relation to their coursework or unanticipated financial difficulty before they are granted the right to work.

Second, Australia, the UK and New Zealand have a strict delineation between study and temporary work visas, but students having the capacity to articulate to a work visa on the basis of their qualification and skill needs within the country. These countries make special allowance for former international students to apply for temporary visas. By contrast, the US and Canada have provisions attached to their student visa which allow students to work for at least one year at the completion of their studies.

#### **Policy Options for the Australian Student Visa System**

The findings of this comparative study indicate that Australia's student visa policy should be reassessed in view of current practice elsewhere. Four key issues emerge, three of which pertain to reducing the complexity and financial stringency of the student visa system and the last of which pertains to the education/work nexus facing international students:

1. Should Australia have a single, student visa for higher education students, as per the reference set of countries considered?

All other countries examined in this comparison have a single entry visa for students, rather than a group of sub-class visas. This has the benefit of simplifying the application process for students and reducing administrative burdens where students enter Australia under 'package deals' where they intend to undertake English language instruction or vocational and/or educational training prior to entering a university.

The counter argument to the single student visa concept is that higher education, as the most prominent sector in international education in Australia, requires a uniquely recognised visa. For this reason, there could be potential benefit in merging the current sub class visas (573 – Higher Education and 574 – Postgraduate) into a single visa covering the entire higher education sector. This would serve to streamline entry into undergraduate and ultimately postgraduate study in Australia of international students.

2. Should the financial requirements test be limited to the first year of tuition/living expenses as per other countries?

Australia is unique in requiring proof of financial resources to cover tuition and living expenses over the duration of a student's stay in Australia (in addition to resourcing for spouses and dependents, be they in Australia or in the sending country). The other countries in this comparison require only proof of funding for the first year's tuition and living costs for the student. In effect, international applicants in Australia's higher education sector have to provide evidence for financing equal to around three times that of competitor countries.

3. Should there be an emphasis on proof of funds rather than proof of source of funding?

In addition to proving funding, applicants also have to demonstrate funding sources, particularly for countries at the Assessment Level 3 or above. Australia's two largest markets for onshore higher education, China and India, are ranked at Assessment Level 4 for undergraduate higher education courses, implying that students must provide evidence of funding for three to four years of their studies as well as proof of the source of this funding<sup>16</sup>. No other country undertakes this assessment for any country. Removing or modifying this test in the context of a reduced requirement to demonstrate financial capacity would serve to eliminate a substantial impediment to Australia's overall competitiveness in the international higher education sector.

One obvious rationale for undertaking this reform is that the test currently punishes higher education providers whose students tend to have longer associations with their institutions. There is likely to be more vigilance at the institutional level for these students in any case, regardless of governmental regulatory requirements on reporting financial capacity.

4. Should the higher education student visa include a post-study work component?

Presently, there is a strict delineation between study and work visas in Australia. In contrast, in both the US and Canada, students are allowed to work for at least one year after the completion of their studies in an area relating to their course. This serves as a bridge between study and work which either prepares students to apply for a formal work visa in Australia or which better prepares them to enter the workforce in their country of origin.

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<sup>16</sup> Although in response to lobbying from the sector, the Government has announced in December 2010 that it will lower the Assessment Levels for higher education sub visas for India and China to Level 3, commencing April 2011. See DIAC (2010) 'Overview of Student Visa Changes to Assist International Education Sector', [http://www.immi.gov.au/students/\\_pdf/student-visa-changes.pdf](http://www.immi.gov.au/students/_pdf/student-visa-changes.pdf)

## **Conclusion**

One of the key factors affecting international student participation in Australian higher education is the system of student visas. As a result of recent falls in international student commencements there has been a renewed call for a revision to student visa policy. This has culminated in the establishment of the Knight Review of the Student Visa Program by the Commonwealth Government.

This paper provides evidence and discussion of several policy options in view of a comparative analysis of student visa systems in Australia, the United States, the United Kingdom, Canada and New Zealand. The underlying finding from this work is that the Australian student visa system is especially complex with regard to the number of visas available to students and in the level of stringency applied to tests of financial capacity and proof of funding. In addition, Australia has generally less generous post-study employment options under the student visa system in comparison with other countries, especially the US and Canada.

These findings suggest that the Australian system can be streamlined and simplified to make it comparable to that of its chief competitor countries in the higher education sphere.

PUBLIC POLICY

	Australia	US	UK	Canada	New Zealand
<b>Visa Name</b>	Sub Class 573 (Higher Education); and Sub Class 574 (Postgraduate Research) <sup>1</sup>	F-1 Student Visa <sup>2</sup> (M-1 Student Visa for vocational courses) <sup>3</sup>	Tier 4 Visa <sup>4</sup>	Study Permit <sup>5</sup>	Study Visa/Permit <sup>6</sup>
<b>Visa Cost</b>	A\$550	US\$140 (A\$142) <sup>8</sup>	£220 (A\$354) <sup>9</sup>	C\$125 (A\$124) <sup>10</sup>	US\$150 (A\$152) <sup>11</sup>
<b>Financial Requirements (Single Undergraduate Student)</b>	<p><i>Travel, tuition and living expenses:</i> Applicants must declare that they have enough money to pay for travel, tuition and living expenses for themselves, their partner and dependent children for the duration of their stay in Australia. They must also have enough money to support their partner and dependent children, even if they do not travel with the applicant to Australia.</p> <p>Specifically, the minimum requirements for this sub class visa assessment level are:</p> <p><i>Travel:</i> Applicant's Return air fare to Australia plus one return air fare to Australia per person;</p> <p><i>Tuition:</i> Course fees for applicant, typically between A\$18,000 and A\$30,000 per annum<sup>12</sup></p> <p><i>Living:</i> Applicant: A\$18,000 per year Partner: A\$6,300 per year First child: A\$3,600 per year (plus A\$8,000 for schooling costs for children aged 5-18) Each other child: \$A2,700 per year (plus A\$8,000 for schooling costs for children aged 5-18)</p> <p>In the case of a single student, costs are therefore around A\$36,000 to A\$48,000 per annum or over three years:</p> <p><b>Between A\$108,000 and A\$144,000.</b></p>	<p>Financial evidence must show that the applicant or their family/sponsors have sufficient funds to cover tuition and living expenses during the period of their intended study. This is declared on the Department of Homeland Security I-20 Form which is filled out as part of their college application.</p> <p>Required financial resources will depend upon the tuition and board costs for the applicant's college, but must be demonstrated for one year. For instance, the University of New Haven requires international undergraduates to be able to demonstrate financial resources equal to approx. \$43,310 – enough to cover one year's board and tuition.<sup>13</sup></p> <p>Cost calculated on first year costs of board and tuition: US\$40,000+ (A\$40,500)</p>	<p>Applicants for the Tier 4 visa need to accrue 40 points in total. Of these 30 points are attributable to the provision of a Confirmation of Acceptance of Studies (CAS) document, an online document provided by an approved sponsor (higher education institution). The last 10 points are awarded upon the satisfaction of the maintenance funds requirement.</p> <p>The maintenance amount for the main applicant is calculated at: £800 per month for applicants intending to study in the Inner London Boroughs; and £600 per month for those intending to study elsewhere.</p> <p>Maintenance must be demonstrated for: Courses of up to 9 months duration: The full tuition fee plus the appropriate monthly amount for each month in the UK. For courses over 9 months: The first year of the tuition fees plus either £7200 or £5400, depending on whether they intend to study inside or outside of the Inner London Boroughs.</p> <p>*Tuition fees for international students are around £9,300 per annum for classroom based courses.<sup>14</sup></p> <p>Cost calculated on first year of a classroom undergraduate course (tuition and board) outside London: <b>£14,700+ (A\$23,667)</b></p>	<p>(Except in Quebec, where costs are around 10 per cent higher)<sup>15</sup></p> <p><i>Single Student:</i> Tuition* + \$10,000 for a 12 month period, or \$833 a month.</p> <p>*Tuition fees for international students are around C\$15,500 per annum.<sup>16</sup></p> <p>Cost calculated on tuition plus \$10,000 for 12 month period: <b>C\$25,500+ (A\$25,310)</b></p>	<p><i>With Guarantor</i> Applicants complete a form – <i>Financial Undertaking for a Student (INZ 1014)</i> and send it with their application form.</p> <p><i>Without Guarantor</i> For stays of less than 36 weeks, applicants need to provide evidence of funds of NZ\$1000 for each month of study.</p> <p>For stays of 36 weeks or more, applicants need to provide evidence of NZ\$10,000 for each year of study, around NZ\$30,000 for a three-year degree.</p> <p>Cost calculated on \$10,000 per annum for three years: <b>NZ\$30,000 (A\$22,915)</b></p>

AUSTRALIAN STUDENT VISA POLICY

<p><b>Evidence of Funds</b></p>	<p><b>Australia</b></p> <p>Level of scrutiny depends upon Assessment Level, from 1 (lowest) to 4 (highest) levels of concern.</p> <p><b>Assessment Level 1 (Singapore/Malaysia)</b><sup>17</sup></p> <p>DIAC must be satisfied that an applicant, once in Australia, will have genuine access to the funds they claim to possess to cover the travel, tuition and living costs for themselves and their family members.</p> <p>Applicants from Assessment Level 1 countries can apply online.<sup>18</sup></p> <p>Acceptable sources of income: Financial support can come from any source. Fully Funded Students must show evidence that the sponsoring agency, government or organisation will cover the cost of:</p> <ul style="list-style-type: none"> <li>• travel, tuition and living expenses for the applicant and dependent family members; and</li> <li>• accompanying the applicant to Australia.</li> <li>• supporting dependent family members remaining in their home country, taking into consideration the local standard of living.</li> </ul> <p><b>Assessment Level 4 (China/India)</b><sup>19</sup></p> <p>Acceptable sources of income: Financial support must come from one or more acceptable sources, which may include:</p> <ul style="list-style-type: none"> <li>• A money deposit with a financial institution that has been held for at least six consecutive months immediately before the date of the visa application by: the applicant; partner (spouse or de facto partner, including same-sex de facto partners); parents, grandparents, siblings or aunt/uncles who are resident in Australia or New Zealand citizens;</li> <li>• A loan from the government of the applicant's home country;</li> <li>• The proposed education provider;</li> <li>• The Australian Government or an Australian State or Territory government;</li> <li>• The government of a foreign country or provincial or state government of a foreign country that has the written support of the national government of the foreign country.</li> <li>• An organisation gazetted by the Minister;</li> <li>• An acceptable non-profit organisation;</li> <li>• A multilateral agency, e.g., United Nations, World Bank or Asian Development Bank</li> </ul> <p>Non-cash assets such as property and shares are not acceptable sources of income. Evidence of money deposits or loans must be provided, so that applicants can show evidence of how the money to fund their studies was accumulated. Likewise, funding by third parties, as listed above must be supported by documentation.</p>	<p><b>US</b></p> <p>This includes: income tax documents and original bank books and/or statements and/or business registration, licenses, etc., and tax documents, as well as original bank books and/or statements.</p>	<p><b>UK</b></p> <p>These amounts must be held in the applicant's personal bank account or that of their parent(s) / legal guardian's bank account for a consecutive 28 day period (finishing on the date of the closing balance) ending no more than 1 month before their application.</p>	<p><b>Canada</b></p> <p>Evidence that the applicant can support themselves and accompanying family members while they study in Canada. This may include:</p> <ul style="list-style-type: none"> <li>• proof of a Canadian bank account in their name if money has been transferred to Canada;</li> <li>• the applicant's bank statements for the past four months;</li> <li>• a bank draft in convertible currency;</li> <li>• proof of payment of tuition and residence fees;</li> <li>• for those with a scholarship or those with a Canadian funded educational program: proof of funding paid from within Canada.</li> </ul>	<p><b>New Zealand</b></p> <p>Acceptable evidence of funds includes photocopies of: travellers' cheques; bank drafts; letters of credit; and bank statements in the applicant's name, going back at least three months.</p>
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<p><b>Processing Times</b></p>	<p><b>Australia</b></p> <p>Stated Client Services Charter of DIAC:<sup>20</sup>                  Student Visa Application Outside Australia:                  Assessment Level 1 – 14 days                  Assessment Level 2 – 21 days                  Assessment Level 3,4 – 90 days</p>	<p><b>US</b></p> <p>Typical Visa waiting times:<sup>21</sup>                  China (Shanghai) – 6 days;                  India (Mumbai) – 2 days;                  Vietnam (Ho Chi Minh City) – 6 days;                  Singapore – Same day;                  Malaysia (Kuala Lumpur) – 1 day;</p>	<p><b>UK</b></p> <p>Visa processing times:<sup>22</sup>                  For individual countries (main cities):                  China: 99 per cent in 30 days and 3 per cent in 2 days;                  India: 98 per cent in 30 days and 0 per cent in 2 days;                  Vietnam: 100 per cent in 30 days and 0 per cent in 2 days;                  Singapore: 99 per cent in 30 days and 18 per cent in 2 days;                  Malaysia: 99 per cent in 30 days and 43 per cent in 2 days;</p>	<p><b>Canada</b></p> <p>Overall: 71 per cent of student visa applications processed in less than 28 days, 14 per cent in 2 days or less.<sup>23</sup>                  For individual countries (main cities) this equates to:                  China: 56 per cent in 28 days and 2 per cent in 2 days;                  India: 83 per cent in 28 days and 10 per cent in 2 days;                  Vietnam: 10 per cent in 28 days and 1 per cent in 2 days;                  Singapore: 44 per cent in 28 days and 6 per cent in 2 days;</p>	<p><b>New Zealand</b></p> <p>Upon receipt of visa, NZ immigration will either provide a decision, or tell applicant within 14 days, how long the processing time is predicted to be.<sup>24</sup></p>
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AUSTRALIAN STUDENT VISA POLICY

<p><b>Work Allowances</b></p>	<p><b>Australia</b></p> <p>Work conditions (after 26 April 2008):<sup>25</sup></p> <p>Students require permission from the Department of Immigration and Citizenship (DIAC) to commence work. Students can only work once they have started their course.</p> <p>Work hours: Up to 20 hours a week when their course is in session. Unlimited hours during scheduled course breaks. Work associated with formal course compliance or voluntary work is not included in the 20 hour limit.</p>	<p><b>US</b></p> <p>Students can only work on campus in the first year of enrolment. Thereafter, they can work off campus in a capacity related to their studies, subject to approval by the Designated School Official (a person authorised to maintain Student and Exchange Visitor Information System (SEVIS)) and the US Citizenship and Immigration Service (USCIS), and where they meet one of three criteria:</p> <ul style="list-style-type: none"> <li>• Curricular Practical Training (CPT);</li> <li>• Optional Practical Training (OPT) (pre-completion or post-completion); and</li> <li>• Science, Technology, Engineering, and Mathematics (STEM) Optional Practical Training Extension (OPT)</li> </ul> <p>Work is limited to 20 hours a week during courses (although allowances can be made where hardship is demonstrated) and up to 40 hours a week during scheduled breaks.<sup>26</sup></p>	<p><b>UK</b></p> <p>Under the Tier 4 (General) visa, students in foundation degrees may only work for up to 20 hours per week.<sup>27</sup></p>	<p><b>Canada</b></p> <p>Work conditions:<sup>28</sup></p> <p>Full-time students in Canada (contact hours greater than 15 hours a week) are generally not allowed to work while studying. The exceptions to this ruling are where a student can demonstrate that work carried out is essential or integral to their course; employment relates to an approved research or training program; or they are temporarily destitute through circumstances beyond their control;</p>	<p><b>New Zealand</b></p> <p>Students are allowed to work up to 20 hours a week during the academic year. They can work unlimited hours at the end of the academic year during the Christmas and New Year break.<sup>29</sup></p>
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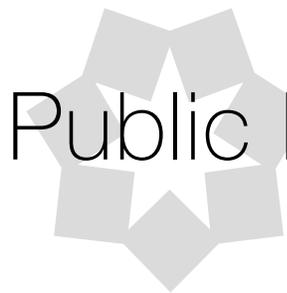
<p><b>Post-Study Work and Residency</b></p>	<p><b>Australia</b></p> <p>Post-study work requires a new visa, either via a work visa or a permanent residence visa directly linked to their completion of studies.<sup>30</sup></p> <p>Visas include:</p> <p><i>Temporary Residency Visas</i></p> <p><b>Skilled – Regional Sponsored (Provisional) Visa (Subclass 487)</b> – A three year provisional visa for eligible overseas students and holders of certain temporary visas who can meet the lower pass mark for this visa. Applicants must be either sponsored by an eligible relative, living in a designated area of Australia or nominated by a participating state/territory government. Applicants can only apply for a permanent visa after living for two years and working for at least one year in a Specified Regional Area.</p> <p><b>Skilled – Graduate (Temporary) Visa (Subclass 485)</b> – An 18 month temporary visa for eligible overseas students with an onshore Australian qualification in a course of at least two years' study. This visa allows applicants who are unable to pass the points test to remain in Australia for 18 months to gain the skills and experience needed to apply for a permanent or provisional General Skilled Migration visa. No points test applies.</p> <p><i>Permanent Residency Visas</i></p> <p><b>Skilled – Independent (Residence) Visa (Subclass 885)</b></p> <p>– for eligible overseas students with an onshore Australian qualification in a course of at least two years' study and for holders of temporary visas whose skills are in demand in Australia. Applicants must pass a points test, but do not require sponsorship.</p> <p><b>Skilled – Sponsored (Residence) Visa (Subclass 886)</b> – for eligible overseas students with an onshore Australian qualification in a course of at least two years' study, where the applicant cannot meet the Skilled – Independent pass mark. Applicants must be sponsored by either a relative in Australia or through nomination by a State or Territory government. Applicants must pass a points test lower than that for the Skilled – Independent visa.</p> <p><b>Skilled – Regional (Residence) Visa (Subclass 887)</b> – A permanent visa for eligible provisional visa holders who have lived for at least two years and worked for at least one year in a Specified Regional Area in Australia.</p>	<p><b>US</b></p> <p>An F-1 visa allows a student to remain in the US for an additional 60 days after their nominated course has been completed. This allows for the commencement of Optional Practical Training (OPT) which can extend to one year.<sup>31</sup> In addition, OPT can be extended by an additional 17 months in the case of students with qualifications in Science, Technology, Engineering or Mathematics.</p> <p>Students can apply for temporary or permanent visas, including:</p> <p><i>Employment-Based Visas</i><sup>32</sup></p> <p>Every year around 140,000 such visas are made available to priority workers, professionals holding advanced degrees or persons of exceptional ability, skilled workers, professionals and unskilled workers and persons from 'certain special immigrant' groups.</p> <p><i>Temporary Visas</i><sup>33</sup></p> <p><b>H-1B Visa</b> – This is granted to persons in speciality occupations which require the theoretical and practical application of a body of highly specialised knowledge requiring completion of a specific course of higher education. Around 65,000 of these are granted each year.</p> <p><b>O-1 Visa</b> – These temporary visas are granted to individuals with 'Extraordinary Ability or Achievement in the sciences, arts, education, business, or athletics, or extraordinary achievements in the motion picture and television field.'</p>	<p><b>UK</b></p> <p>Students can remain in the UK for a full 4 months after the completion of their course for courses of more than 12 months in duration.<sup>34</sup></p> <p>Students can apply for a Tier 1 (Post-study work) visa if they are not nationals from the European Economic Area or Switzerland and are currently students at institutions in the UK.<sup>35</sup></p>	<p><b>Canada</b></p> <p>Students may work for a maximum of one to two years following conclusion of their study in an area of employment relating to their course.<sup>36</sup></p> <p>The application for a work permit must occur within 90 days of the student receiving their marks.</p>	<p><b>New Zealand</b></p> <p>At the completion of their studies, overseas students in New Zealand can apply for temporary work visas.<sup>37</sup></p> <p><i>Graduate Job Search Policy</i></p> <p>Under this policy, students can apply for a 12 month temporary work visa after they finish their qualification to work in unrelated areas while they seek employment in occupations directly related to their qualification. Students must apply for this visa within three months of the end date of their student visa and be able to demonstrate financial resources equal to NZ\$2,100.</p> <p><i>Study to Work Policy</i></p> <p>This visa is valid for either two years, to enable students to obtain practical experience relating to and suitable for, their New Zealand qualification, or three years if they are working to obtain professional recognition from a New Zealand professional association.</p> <p>Students need to apply for a visa under this program no later than three months after the end date of their study permit. They must be able to demonstrate evidence of an offer of employment in an area of expertise related to a three-year qualification.</p>
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## Appendix Notes

- 1 Department of Immigration and Citizenship (2010), 'Overseas Student Program – Assessment Levels', available at: <http://www.immi.gov.au/allforms/pdf/assessment-levels.pdf>
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- 5 Citizenship and Immigration Canada (2010), 'Studying In Canada – Applying for a Study Permit Outside Canada', available at: <http://www.cic.gc.ca/english/pdf/kits/guides/5269E.PDF>
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<li>13 University of New Haven (2010), 'Financial Requirements for International Applicants Seeking an I-20 Form', available at: <a href=)
- 14 Universities UK (2010), 'International Student Tuition Fees: Survey Results 2009-10', available at: <http://www.universitiesuk.ac.uk/Newsroom/Facts-and-Figures/International-student-tuition-fees/Survey-results-2009-2010/Pages/Default.aspx>
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