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**"Getting ahead or exploitation": a comparative analysis of the rise of internships and collective actions to advance the labour rights of interns**

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## Introduction

The transition of young people from education into the labour market has become lengthier and more complex. Job scarcity and skill polarisation has become the norm in many industrialised countries and employers are increasingly demanding graduates to be “job ready”.<sup>1</sup>

Unpaid internships have become a prominent feature of the youth labour market as young people strive to overcome the paradox of not being able to acquire experience without a job, and acquire a job without experience. The lack of regulation concerning unpaid internships also has the potential to undermine established provisions in the broader employment system and mask the urgency for a long-term plan towards youth employment.

While the transient nature of the intern workforce falls outside the coverage of traditional unions, the past five years, in particular, have seen organisations focused on intern rights rising across a number of industrialised countries. Young workers themselves are striving to make their voices heard through organising and collective action.

This paper examines newly established advocacy bodies across the United Kingdom, the United States, Canada, The Netherlands, Belgium, France, Italy and Australia that use a mix of political advocacy, litigation and social enterprise to advance the labour rights of unpaid interns. The paper begins with an exploration of the context in which internships are becoming more prevalent and attracting more attention, then provides a comparative analysis of the effectiveness of existing labour laws in protecting interns. The authors surveyed or interviewed representatives of nine organisations from the eight countries mentioned above, along with gathering information from the websites of other intern advocacy organisations. Appendix I contains the full list of survey and interview participants and the survey questions. The paper explores the results of the surveys and interviews with a focus on the organisational structures of the intern advocacy groups, the different strategies developed by the organisations, their relationships with other forms of organised labour, and their comparative successes - legal, political and cultural - in addressing the issues faced by interns as a growing group of vulnerable young workers, along with the barriers and difficulties the organisations face in their work.

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<sup>1</sup> “Urgent action required to support demand and boost job creation”, Organisation for Economic Co-operation and Development, 2014, [www.oecd.org/about/secretary-general/urgentactionrequiredtosupportdemandandboostjobcreation.htm](http://www.oecd.org/about/secretary-general/urgentactionrequiredtosupportdemandandboostjobcreation.htm) (accessed 10 June 2015).

## Section 1: Internships in the context of unemployment, globalisation and the changing labour market

The rise in internships, the increased attention on intern experiences and advocacy for the rights of interns comes in the context of high levels of unemployment, changes in the global labour market and austerity politics, particularly in Europe. For this paper we adopt, in part, the European Commission definition of an internship as “limited periods of work practice, including a learning component, undertaken with the aim of helping the integration of young people into the labour market.”<sup>2</sup> They vary in duration and can be paid or unpaid. Internships are distinguished from traineeships that are “part of a formal vocational training program, leading to a specific occupational qualification and often involve trade unions or professional organisations in their design.”<sup>3</sup> Internships can be performed as part of higher education courses and indeed the increase in unpaid internships as part of university courses is of concern.

Youth unemployment in Europe is at historically high levels. In 2014, over 5 million young people (under the age of 25) were unemployed in the European Union countries, that is 23.2%, more than twice the adult unemployment rate. Furthermore, 7 million young people were neither in employment, education or training.<sup>4</sup>

Similarly in Australia, the United States, and Canada youth unemployment has been high by historic standards since the Global Financial Crisis, although in Canada and the US there has been some recent improvements. Australia’s youth unemployment rate reached 13.7% in February 2015 and has been trending upwards.<sup>5</sup> In Canada it is 13.6%, while in the United States it is 11.6%.<sup>6</sup> Youth underemployment, which is not reflected in the unemployment figures, also remains high.

Youth unemployment has grabbed the attention of the European Commission and the International Labor Organisation (the ILO). The European Union noted in its 2013 resolution adopting a Youth Guarantee that: “Young people have been hit particularly hard during the crisis. They are vulnerable because of the transitional life periods they are going through, their lack of professional experience,

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<sup>2</sup> Briefing: Quality Traineeships, European Parliamentary Library Service, 19 December 2013 [http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/130685/LDM\\_BRI%282014%29130685\\_REV1\\_EN.pdf](http://www.europarl.europa.eu/RegData/bibliotheque/briefing/2014/130685/LDM_BRI%282014%29130685_REV1_EN.pdf) (accessed 10 June 2015)

<sup>3</sup> Ibid.

<sup>4</sup> European Commission, Youth Employment policy, <http://ec.europa.eu/social/main.jsp?catId=1036> (accessed 10 June 2015)

<sup>5</sup> ABS Labour Force Cat. 6202 <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/6202.0Main+Features1May%202015?OpenDocument> (accessed 11 June 2015)

<sup>6</sup> Statistics Canada, Labour Force Survey, <http://www.statcan.gc.ca/daily-quotidien/150313/dq150313a-eng.htm> (accessed 11 June 2015)

their sometimes inadequate education or training, their often limited social protection coverage, restricted access to financial resources, and precarious work conditions.”<sup>7</sup>

In 2012 the International Labor Conference of the ILO discussed a report entitled, “The youth employment crisis: Time for action” which concluded that:

“the youth employment crisis – measured in terms of significantly higher unemployment, lower quality jobs for those who find work, rising marginalization of youth and among youth, insecure and slow transitions from school to work and, above all, detachment from labour market – has reached intolerable dimensions. This crisis has widened the gap between the aspirations of youth and their potential and the opportunities offered to them in the labour market and in society...

...A major lesson that has emerged from the current global crisis is that youth are particularly vulnerable to volatile financial and economic situations. A whole generation of youth now faces much bleaker life prospects than any previous one. It is inconceivable that this should be allowed to happen again.”<sup>8</sup>

It is within this context that the Bank of Canada Governor can speak of the 200 000 young Canadians who are unemployed, underemployed or back in school to improve job prospects, then offer this advice: "Get some real-life experience even though you're discouraged, even if it's for free....If your parents are letting you live in the basement, you might as well go out and do something for free to put the experience on your CV.”<sup>9</sup>

With high unemployment and limited job prospects, working for free risks becoming normalized for groups of young people.

While there is little official data on numbers of interns, various countries’ estimates indicate internships are flourishing, with many, if not, most unpaid.

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<sup>7</sup> The Youth Guarantee recommends Member States of the European Union “ensure that all young people up to age 25 receive a quality offer of a job, continued education, an apprenticeship or a traineeship within four months of leaving formal education or becoming unemployed.” It is supported by a Youth Employment initiative making funds available for youth employment programs. See <http://ec.europa.eu/social/main.jsp?catId=1036> Although the lack of upfront funds means some member states have been struggling to implement relevant policies and initiatives.

<sup>8</sup> “The youth employment crisis: Time for action”, Report V, International Labour Conference, 101st Session, 2012 [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@relconf/documents/meetingdocument/wcms\\_175421.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_175421.pdf) (accessed 5 June 2015)

<sup>9</sup> “Stephen Poloz comments on unpaid work raise ire of youth groups”, The Canadian Press, 5 November 2014 <http://www.cbc.ca/news/business/stephen-poloz-comments-on-unpaid-work-raise-ire-of-youth-groups-1.2824388> (accessed 8 June 2015)

The European Commission estimates there are 4.5 million internships (also called traineeships) in the European Union each year.<sup>10</sup> A recent EC survey found 59% of interns did not receive any financial compensation and for those that were paid, less than half considered it was enough to cover basic living costs. The survey also found that 40% of interns had no written agreement or contract and 30% had substandard learning content or working conditions.<sup>11</sup>

In *Intern Nation*, Ross Perlin estimated between 1-2 million people were engaged as interns on an annual basis in the United States, with around 50% being unpaid.<sup>12</sup> There is no reliable information on the number of interns in Canada. The intern advocacy groups in Canada are seeking proper data collection on interns by the government.

The report prepared by Professors Andrew Stewart and Rosemary Owens for the Australian Fair Work Ombudsman, "Experience or exploitation? The nature, prevalence and regulation of unpaid work experience, internships and trial periods in Australia"<sup>13</sup>, provides many examples of internships and other unpaid work experience in Australia. However, there is no reliable data available to provide any accurate assessment on intern numbers. The report also provides a useful summary of the global and local Australian context for the increase in internships.

In their report, Stewart and Owens reflect on the impacts of globalisation on Australia and the implications for the labour market, including the proliferation of various forms of non-standard employment relationships. They note:

"the developed world has witnessed a proliferation of various forms of non-standard employment relationships. This has also been true in Australia. While these relationships may once have been described as 'atypical', that has not been an accurate description for a long time. However, it continues to be the case that precarity is a hallmark of such arrangements...While many forms of non-standard work are acknowledged as involving 'employment' in the conventional sense, a perhaps even greater challenge has come when work falls, or is claimed to fall, outside that category. In the new world of work, the language that was once reserved for businesses as market players is often now applied to workers. Many are described as powerful 'knowledge' workers, persons who are independent risk takers, who invest in themselves, in their own skills, and who are responsible for developing their own 'human capital'."<sup>14</sup>

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<sup>10</sup> Briefing: Quality Traineeships, European Parliamentary Library Service.

<sup>11</sup> "Traineeships: survey reveals shortcomings in working conditions and learning content", European Commission, 26 November 2013. [http://europa.eu/rapid/press-release\\_IP-13-1161\\_en.htm?locale=en](http://europa.eu/rapid/press-release_IP-13-1161_en.htm?locale=en) (accessed 6 June 2015)

<sup>12</sup> Ross Perlin, *Intern Nation* (Verso, London and New York: 2011)

<sup>13</sup> Rosemary Owens and Andrew Stewart, "Experience or exploitation? The nature, prevalence and regulation of unpaid work experience, internships and trial periods in Australia", Report for the Fair Work Ombudsman: 2013. <http://www.fairwork.gov.au/about-us/reports-and-submissions/research-reports> (accessed 8 June 2015)

<sup>14</sup> Ibid. pp. 22-23.

It is in this context internships are becoming more prevalent. Guy Standing refer to the consequences of globalisation when he argues that: “The neo-liberal ideology that guided government from the 1980s onwards ushered in what we now call globalization....Government re-regulated labour markets to make them more flexible, dismantled institutions of social solidarity, rolled back mechanisms of social and economic security and commodified education to serve the interests of business.”<sup>15</sup>

One policy response to the challenges posed by globalisation for youth employment has been to reduce employment protection legislation in relation to young people, providing for lower wages and more flexible means of being engaged. Where dual labour markets exist, that is lower protections for workers on temporary employment arrangements, young people are more likely to be engaged on temporary contracts. The economic argument is that reduced employment protection legislation enables young people to be more easily employed due to lower employment costs. However, high youth unemployment is also a feature of dual labour markets where the higher proportion of youth on temporary contracts are the first to be let go in times of difficulty.<sup>16</sup>

At the same time there has been a trend over the last 30-40 years to restrict and make conditional access to state support for people who are unemployed. For example, stricter means-testing, periods of non-payment, compulsory work programs such as work for the dole schemes, along with tedious processes for applying for and maintaining benefits. The recently re-elected government in the United Kingdom has indicated it intends to introduce laws to stop unemployment benefits for young people aged 18-21 after 6 months if they have not found a job or are engaged in training.<sup>17</sup> The policy has a similar rationale to Australia’s “earn or learn” policy which requires young people receiving unemployment benefits to be engaged in education or training or in some form of work. More recently the Australian government announced a policy to put in place a waiting period of six months for people under 30 years of age, now reduced to one month for people under 25 years of age, before they can receive unemployment benefits.<sup>18</sup>

Along side these incentive reinforcement strategies, are other forms of active labour market policies aimed at young people that seek to invest in human capital through training and education. The most successful of these policies seem to be those where investment is made in quality education and training and is targeted but these policies are also the most expensive and least embraced by governments.

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<sup>15</sup> Guy Standing, *A Precariat Charter: From Denizens to Citizens* (Bloomsbury, London: 2014), Loc 603, Kindle ebook.

<sup>16</sup> Angana Banerji, Sergejs Saksonovs, Huidan Lin, and Rodolphe Blavy, “Youth Unemployment in Advanced Economies in Europe: Searching for Solutions”, IMF Staff Discussion Note: 2014. <http://www.imf.org/external/pubs/ft/sdn/2014/sdn1411.pdf> (accessed 12 June 2015)

<sup>17</sup> “David Cameron: Jobless teenagers must carry out community work to get benefits”, The Telegraph, 17 February 2015 <http://www.telegraph.co.uk/news/politics/david-cameron/11416694/David-Cameron-Jobless-teenagers-must-carry-out-community-work-to-get-benefits.html> (accessed 11 June 2015)

<sup>18</sup> Australian Government, Budget 2015-2016, [http://www.budget.gov.au/2015-16/content/bp2/html/bp2\\_expense-20.htm](http://www.budget.gov.au/2015-16/content/bp2/html/bp2_expense-20.htm) (accessed 10 June 2015)

Standing argues that the era of austerity, since the Global Financial Crisis, has seen the “accelerated growth of the precariat, as governments rushed to erode remaining labour protections, cut unemployment benefits, increase means-testing, tightening conditionality for benefits and liberalise more occupations.”<sup>19</sup>

It is within the context of high youth unemployment, reductions in labour protections, and the affects of neoliberal policies reducing social welfare systems that not only are we seeing an increase in the use of internships but also in the organising of young people standing up for their rights in the workplace, including the right to be paid for their labour.

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<sup>19</sup> Standing, *A Precariat Charter*, Loc 1074.



## Section 2: Comparative analysis of laws and policies regulating internships

Labour law protections flow from the contract of employment.<sup>20</sup> Given that internships tend to fall outside the clear understanding of employer-employee relations, it raises the question as to the need for a new characterisation of interns as a specific employment category.<sup>21</sup> The question of a specific employment category for interns recognises that balance is needed to address the challenge whereby the classification of interns as employees may have undesirable policy outcomes yet an absence of protection for interns will expose them to significant risks in the workplace.

Within these two broad categories - laws that recognise the intern as a distinct category of employment and laws that do not recognise the intern as a category of employment - it is possible to contrast the different approaches taken by the countries in this study. Countries that have adopted the former are able to balance the minimum remuneration standards for the intern and offer social protections akin to that of a standard employee. Meanwhile countries that have adopted the latter are under no statutory obligation to provide the intern with standard protections offered to a regular employee, and as a result have offered few additional protections.

In the survey, the countries falling into the former category are France, Italy, Belgium and the Netherlands and the countries falling into the latter category are Canada, Australia, the United Kingdom and the United States. We consider six criteria in comparing the various laws that apply to interns: payment, protection afforded the intern, duration of the internship, structure, quotas, and documentation and enforcement.

### Internships as a defined category of employment

With the exception of the Netherlands, laws that have created a new employment category for the intern have been relatively recent. In the Netherlands, the law defining the intern dates back to 1964 and reflects the tradition of apprenticeship and vocational training common in Germany and Scandinavian countries.<sup>22</sup>

While variations are present in the provisions for the intern, as a whole the four countries have many more provisions for the quality and accountability of the internship, providing for over four out of six of the criteria of assessment. This is to be contrasted with the countries in the latter group, which provide fewer than two out of six in the criteria of assessment.

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<sup>20</sup> Rosemary Owens, Joellen Riley et al. *The Law of Work* (Oxford University Press, 2nd ed, 2011), 198.

<sup>21</sup> Clara Jordan-Baird, "Experience Essential, Remuneration: None, The Legal Status of Internships", The University of Melbourne, Centre for Employment and Labour Relations Law, (June 2013) <https://www.law.unimelb.edu.au/files/dmfile/StudentWPNo13-Jordan-BairdUpdated.pdf> (accessed 25 May 2015).

<sup>22</sup> A. C. Peterson and J. T. Mortimer, eds., *Youth Unemployment and Society* (Cambridge: Cambridge University Press, 1994), 258-261.

	Pay	Duration	Structure	Quota	Protection	Documentation and Enforcement
France	X	X	X	X	X	X
Italy	X	X	X	X	X	X
Belgium	X	X	X		X	X
Netherlands	X	X	X		X	
Canada			X			X
Australia					X	X
United Kingdom		X				X
United States			X			X

### Payment

A form of intern minimum wage is legally required in all four countries.<sup>23</sup> While the intern minimum wage falls below the minimum wage provided to regular employees, the laws have largely allowed interns to retain the workplace protections received by regular employees.

In France, the intern minimum wage is revised periodically.<sup>24</sup> In Italy, revision of the intern minimum wage is left to individual regions in response to the national intern minimum wage.<sup>25</sup> In Belgium the intern minimum wage is benchmarked to the age of the intern.<sup>26</sup>

<sup>23</sup> Décret n° 2014-1420 du 27 novembre 2014 relatif à l'encadrement des périodes de formation en milieu professionnel et des stages, 2014. <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000029813186&categorieLien=id> (accessed 20 May 2015); Legge 16 maggio 2014, n. 78, 2014. [http://www.lavoro.gov.it/Strumenti/normativa/Documents/2014/20140516\\_L\\_78.pdf](http://www.lavoro.gov.it/Strumenti/normativa/Documents/2014/20140516_L_78.pdf) (accessed 20 May 2015); Loi-programme. 2 Aout 2002, s 104-110. <http://www.emploi.belgique.be/defaultTab.aspx?id=3460#AutoAncher1> (accessed 20 May 2015); Wet op de loonbelasting, 1964, [http://wetten.overheid.nl/BWBR0002471/geldigheidsdatum\\_14-06-2015](http://wetten.overheid.nl/BWBR0002471/geldigheidsdatum_14-06-2015) (accessed 20 May 2015).

<sup>24</sup> In the absence of a specified amount, the minimum hourly rate of the stipend due to the intern is set at 12.5% of the social security cap, i.e. 417 euros per month in 2010 for a full-time internship. Past these two months, the amount of the stipend due is either stipulated by industry branch agreement or by the applicable collective bargaining agreement. Karl Waheed, "Interns at Work", Cabinet d'avocat mobilite internationale du travail, September 2010, 3. <http://www.abil.com/articles/ABIL%20Articles%20Global%20-%20FRANCE%20-%20Interns%20-%202009.21.10%20%28Waheed%291.pdf> (accessed 12 May 2015).

<sup>25</sup> The mandatory provision of trainees' remuneration amounting to a minimum of 300 Euro. Given the federal system existing with regards to education and training issues, each region may decide for a higher remuneration. "Traineeships Regulation in Italy after the Fornero Labour Market Reform", Association for International and Comparative Studies in the field of Labour Law and Industrial Relations, 2014, 2. (accessed 4 May 2015). [http://www.adapt.it/englishbulletin/docs/ebook\\_summary.pdf](http://www.adapt.it/englishbulletin/docs/ebook_summary.pdf)

<sup>26</sup> Compensation can be less than the amount of compensation granted to an industrial apprentice and it is a percentage that varies according to the age of the young to be calculated over half the minimum average monthly income. Since 2012 the minimum intern compensation in month allowance is: 15 € 480.60; 16 € 525.70; 17 € 570.70; 18 € 615.80; 19 € 660.80; 20 € 705.90; 21+ € 751. "Convention d'immersion professionnelle" Service Public

In the Netherlands, the intern minimum wage is dependent on the subcategory in which the internship falls. For instance, the Dutch law distinguishes vocational training as 'real' employment, 'fictitious' employment and one that falls outside of either category.<sup>27</sup> 'Real' employment refers to the training component of a paid employment arrangement, allowing the employer to pay a lower wage for the 'intern' component of the job, 'Fictitious' employment refers to a formal training program such as an apprenticeship. If an internship does not relate to either definition then there is no obligation for the employer to pay the intern.<sup>28</sup>

### *Protection*

Protection for regular workers is extended to interns in most countries, with the exception of Italy, which has created a social employment insurance (ASPI) especially for interns.<sup>29</sup>

In France, workplace provisions for interns include work accident cover, sick leave, standard working hours, weekend work regulations and night work regulations.<sup>30</sup> In Belgium, Sunday rest and night work provisions are offered to interns.<sup>31</sup> In the Netherlands, interns are covered by the standard workplace protections under 'real' or 'fictitious' employment but those employed under 'fictitious' employment are not insured for unemployment benefits.<sup>32</sup>

### *Duration*

All countries have provisions for the length of the internship.

France and Belgium have set upper limits to the duration of the internship, requiring internships to last no more than six months and sixty days respectively.<sup>33</sup> Meanwhile Italy and the Netherlands have set

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federal, Emploi, Travail et Concertation sociale, 2015. <http://emploi.belgique.be/defaultTab.aspx?id=3460> (accessed 4 May 2015).

<sup>27</sup> Wet op de loonbelasting 1964, Article 3 [http://wetten.overheid.nl/BWBR0002471/Hoofdstuk/Artikel3/geldigheidsdatum\\_27-05-2015](http://wetten.overheid.nl/BWBR0002471/Hoofdstuk/Artikel3/geldigheidsdatum_27-05-2015) (accessed 18 May 2015)

<sup>28</sup> Ibid.

<sup>29</sup> The social employment insurance (ASPI) was created as a generally applicable social safety net for employees who involuntarily lost their job. The social safety net now covers all employees (including interns), with the exception of the public sector. "The impact of the crisis on fundamental rights across Member States of the EU: Country Report on Italy", Directorate-General for Internal Policies, European Parliament, 2015, 53 [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/510018/IPOL\\_STU\(2015\)510018\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/510018/IPOL_STU(2015)510018_EN.pdf) (accessed 2 June 2015).

<sup>30</sup> Décret n° 2010-956 du 25 août 2010 modifiant le décret n° 2006-1093 du 29 août 2006 pris pour l'application de l'article 9 de la loi n° 2006-396 du 31 mars 2006 pour l'égalité des chances, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000022740722&dateTexte=&categorieLien=id> (accessed 2 June 2015).

<sup>31</sup> Convention d'immersion professionnelle, Service Public federal, Emploi, Travail et Concertation sociale, 2015

<sup>32</sup> Wet op de loonbelasting, 1964, article 3. <http://www.emploi.belgique.be/defaultTab.aspx?id=3460> (accessed 2 June 2015).

<sup>33</sup> Loi-programme, 2 Aout 2002, s 104-110; Loi n° 2006-396 du 31 mars 2006 pour l'égalité des chances, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000268539> (accessed 20 May 2015).

lower limits to the duration of the internship, requiring the internship to last more than six months and one month respectively.<sup>34</sup> This difference can be explained by the two approaches taken whereby the former treats the duration as a protection against long-term low wage employment while the latter treats the duration as a minimum period needed to give rise to meaningful training to take place, allowing for other mechanisms to deter exploitative employment behaviour.<sup>35</sup> It is worth noting that the absence of an upper limit in duration in Italy have led to interns being hired on an average basis of 3-4 years in government ministries and public institutions, drawing criticism from student groups in spite of the regulations for internships in place.<sup>36</sup>

### Structure

All countries have rules for the structure of the internship accompanied by a form of written documentation.

In France, a mandatory tripartite internship agreement must be signed between the education institution, employer and intern whereby the education institution appoints a teacher supervising the internship and the employer appoints a mentor.<sup>37</sup> The tripartite agreement must include the purpose and modality of the internship, as well as standard clauses required by law. At the end of the internship, a training certificate needs to be supplied to the student.<sup>38</sup>

In Italy, a training plan must be provided and the intern agreement can be provided within collective bargaining agreements.<sup>39</sup> In Belgium, a professional immersion agreement must be signed, stating the support, duration and pay under the internship as well as the liabilities for both parties.<sup>40</sup> In the

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<sup>34</sup> Legge 28 giugno 2012 , n. 92. [http://www.lavoro.gov.it/Strumenti/normativa/Documents/2012/20120628\\_L\\_92.pdf](http://www.lavoro.gov.it/Strumenti/normativa/Documents/2012/20120628_L_92.pdf) (accessed 22 May 2015); "Fictitious employment and opting in". <http://www.hr-kiosk.nl/hoofdstuk/arbeidsrecht/arbeidsovereenkomst/fictieve-dienstbetrekking-en-opting-in> (accessed 22 May 2015)

<sup>35</sup> Another way of controlling the duration of internships in France is done by deducting the period of the internship from the probation period if the company decides to hire the intern within three months after the internship. Sarah Mongourdin-Denoix, *Strengthened regulation of internships*, (Paris: HERA France, 2011) <http://www.eurofound.europa.eu/observatories/eurwork/articles/other/strengthened-regulation-of-internships> (accessed 22 May 2015).

<sup>36</sup> E. Voltolina, "A survey of interns and practitioners in public institutions: appeal to the Minister D'Alia", *Repubblica Degli Stagisti*, May 8, 2013. <http://www.repubblicadeglistagisti.it/article/un-censimento-degli-stagisti-e-dei-praticanti-negli-enti-pubblici-appello-al-ministro-dalia> (accessed 7 June 2015).

<sup>37</sup> Mongourdin-Denoix, *Strengthened regulation of internships*.

<sup>38</sup> Décret n° 2014-1420 du 27 novembre 2014 relatif à l'encadrement des périodes de formation en milieu professionnel et des stages, Jo du 30, <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000029813186&categorieLien=id> (accessed 22 May 2015).

<sup>39</sup> Matteo Corti, Massimiliano Delfino, and Carla Spinelli, "The Impact of the Global Financial Crisis on the Evolution of Labour Law in the National Legal Systems", *International Society for Labour and Social Security Law* (2014): 26 <http://isssl.org/wp-content/uploads/2014/08/Italian-National-Report.pdf> (accessed 2 June 2015).

<sup>40</sup> Inge Derde, Valerie Vuurstaek and Tom Claeys, "Employment of Interns", *Laga*, March 24, 2015 <http://www.laga.be/newsroom/legal-news/employment-of-interns> (accessed 10 June 2015).

Netherlands, 'real' employees have set times for work and 'fictitious' employees have an employment contract that can include an outline of the training program.<sup>41</sup>

In the instance of France, the provisions are far more concrete as a result of ongoing revision of the conditions for interns. Since the first legislation, there have been two laws and multiple decrees consolidating the structure of the internship.

### *Quota*

The use of a quota system has had various applications. In France, a quota exists for the education provider whereby a teacher must not supervise more than 16 students.<sup>42</sup> A quota for employers is currently being discussed.<sup>43</sup> In Italy, the quota relates to the amount of interns that a company can hire depending on its size and the retention rate of interns as employees over the past 36 months.<sup>44</sup>

### *Documentation and Enforcement*

Documentation and enforcement methods in the quality and quantity of internships vary across the countries, with an absence of any provision in Italy.

In France, organisations must report the number of interns and their employment conditions in their annual report.<sup>45</sup> This allows the work council to be informed every quarter of the number of interns, their employment condition and tasks undertaken so as to determine whether companies have breached the terms of engagement. For instance, companies are not allowed to hire interns to replace employees or employ interns in response to temporary increases in business activity. Fines of up to 2000 Euros per intern can be made upon a violation of the labour code and repeat offences can attract up to 10,000 Euros.<sup>46</sup>

In Belgium, the professional immersion agreement can give grounds for a reclassification of the agreement as an employment contract if the terms of the original agreement have not been observed.<sup>47</sup>

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<sup>41</sup> Wet op de loonbelasting 1964, Article 3.

<sup>42</sup> Décret n° 2014-1420 du 27 novembre 2014 relatif à l'encadrement des périodes de formation en milieu professionnel et des stages, Jo du 30.

<sup>43</sup> Ibid.

<sup>44</sup> "The Reform of Italian Employment Law (92/2012): a practical overview", *Baker & MacKenzie*, 2012 <http://www.lexology.com/library/detail.aspx?g=9ab9c7b6-ba7b-4b3e-8a75-cae72bdad0aa> (accessed 5 June 2015).

<sup>45</sup> Mongourdin-Denoix, *Strengthened regulation of internships*.

<sup>46</sup> Véronique Vincent, "Posting of employees in France: A decree dated March 30, 2015 has finally clarified the obligations and liabilities imposed on employers and user companies that became effective on April 1, 2015", *Soulier Strategic Lawyering* <http://www.soulier-avocats.com/en/blog/posting-of-employees-in-france-decree-dated-march-30-2015-has-finally-clarified-the-obligations-and-liabilities-imposed-on-employers-and-user-companies-that-became-effective-on-april-1-2015/#sthash.fAwIN6xa.dpuf> (accessed 2 June 2015).

<sup>47</sup> M. Banks, "The Brussels Times investigates unpaid internships in Brussels", *The Brussels Times*, January 19, 2015. <http://www.thebrusselstimes.com/magazine2/1986/the-brussels-times-investigates-unpaid-internships-in-brussels> (accessed 2 June 2015).

Once the agreement has been reclassified, a gross minimum wage of 1500 Euros, double the highest level of intern minimum wage, will need to be paid.<sup>48</sup>

In the Netherlands, documentation is made via the need for employers to withhold payroll taxes for both 'real' and 'fictitious' employment.<sup>49</sup> Educational institutions must also maintain records on the subject.<sup>50</sup>

### Internships without any legal definition

There are two subcategories to the countries that do not provide interns with any legal definition. The first category consists of Canada and Australia, which consider internships as being exempt from the definition of a regular employee under a 'vocational placement' exemption.<sup>51</sup> The second category consists of the United Kingdom and the United States, which only makes a distinction between employees and volunteers, with some form of code of conduct developed by administrative bodies to fill the absence of a formal definition.<sup>52</sup>

The ambiguity has given way to a more litigious landscape whereby interns must establish a case for an employment contract in order to claim remuneration.

### *Payment*

Interns are not entitled to pay and if they are to be paid, they must be paid the regular minimum wage in all four countries.

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<sup>48</sup> Ibid.

<sup>49</sup> "Payroll taxes, income tax, tax aspects trainees Applicable on 27-05-2015", Verheid.nl [http://wetten.overheid.nl/BWBR0029134/geldigheidsdatum\\_27-05-2015](http://wetten.overheid.nl/BWBR0029134/geldigheidsdatum_27-05-2015) (accessed 2 June 2015).

<sup>50</sup> "Internships (legal)", HR-kiosk.nl <http://www.hr-kiosk.nl/hoofdstuk/arbeidsrecht/stage-rechtspositie> (accessed 2 June 2015).

<sup>51</sup> In Australia, vocational work is "undertaken with an employer for which a person is not entitled to be paid any remuneration". Fair Work Act 2009, s 12 [www.austlii.edu.au/au/legis/cth/consol\\_act/fwa2009114/s12.html](http://www.austlii.edu.au/au/legis/cth/consol_act/fwa2009114/s12.html) (accessed 26 May 2015); In Canada, "training initiated on the volition of the employee or developmental voluntary training which prepares the employee for another job does not constitute hours of work". Hours of Work - 802-1-IPG-002 1989, Government of Canada [www.labour.gc.ca/eng/resources/ipg/002.shtml](http://www.labour.gc.ca/eng/resources/ipg/002.shtml) (accessed 28 May 2015).

<sup>52</sup> While work for the dole policies enable young people to be employed on an unpaid basis, the law in the United Kingdom does not give a positive nor negative distinction of what a vocational placement is, as distinct to volunteering. <https://www.gov.uk/employment-rights-for-interns> (accessed 2 June 2015); In the United States, the Wage and Hour Division of the Department of Labor (DOL) provides some guidance in identifying an internship as distinct from an employment relationship while the law contains a much more circular definition of 'employees' as simply 'any individual employed by an employer'. Fair Labour Standards Act 1938, s 203.

## Protection

While workplace protections offered to interns vary across the countries, there is increasing demand for greater oversight as deaths and unsuccessful lawsuits highlight the little protection offered to interns.<sup>53</sup>

In Canada, students engaged in unpaid work-integrated learning programs are not covered under the Occupational Health and Safety Act (OHSA).<sup>54</sup> Following the death of three interns within one year of one another, the lack of workplace safety became the trigger for a new bill to amend the current labour law.<sup>55</sup> Likewise, in the absence of a national scheme, workplace protections laws for interns have only been established in a few state jurisdictions in the United States.<sup>56</sup>

In Australia, students engaged in unpaid work-integrated learning programs will be covered by the Work Health and Safety Act 2011.<sup>57</sup> This is consistent with the policy in the United Kingdom.<sup>58</sup>

## Duration

Apart from the United Kingdom, which sets a one-year upper limit to the duration of the internship, there is no provision to the duration of the internship in the other countries.<sup>59</sup> However, there is a general view that the longer the internship is, the more it will resemble an employment relationship and therefore reclassify the intern as an employee.<sup>60</sup>

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<sup>53</sup> Maeve Kennedy "Bank intern Moritz Erhardt died from epileptic seizure, inquest told", *The Guardian*, November 23, 2013. <http://www.theguardian.com/business/2013/nov/22/moritz-erhardt-merrill-lynch-intern-dead-inquest> (accessed 26 May 2015); Noel Murphy, "Intern death in 'perfect storm'", *Independent*, April 2, 2015. <http://geelong.starcommunity.com.au/indy/2015-04-02/intern-death-in-perfect-storm/> (accessed 26 May 2015); Ashley Mosley, "No Intern Pay? No Protection from Harassment", *Huffington Post*, April 16, 2014 [http://www.huffingtonpost.com/ashley-mosley/no-intern-pay-no-protecti\\_b\\_4788391.html](http://www.huffingtonpost.com/ashley-mosley/no-intern-pay-no-protecti_b_4788391.html) (accessed 26 May 2015)

<sup>54</sup> Claire Seaborn, "Co-op student's death highlights gaps in workplace protections for young workers", September 29, 2014 <http://www.internassociation.ca/adam-keunen/> (accessed 2 June 2015).

<sup>55</sup> Bill 170, Employment Standards Amendment Act (Greater Protection for Interns and Vulnerable Workers), 2014 [http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&Intranet=&BillID=2951](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&Intranet=&BillID=2951) (accessed 2 June 2015).

<sup>56</sup> Cindy Schmitt Minniti "New York State Becomes The Fourth Jurisdiction To Protect Unpaid Interns From Employment Discrimination", *Forbes*, July 29, 2014 <http://www.forbes.com/sites/theemploymentbeat/2014/07/28/new-york-state-becomes-the-fourth-jurisdiction-to-protect-unpaid-interns-from-employment-discrimination/> (Accessed 12 June 2015).

<sup>57</sup> Work Health and Safety Act (2011), s 7 <http://www.comlaw.gov.au/Details/C2011A00137> (accessed 3 June 2015).

<sup>58</sup> "Young people and Work Experience: A brief guide to health and safety for employers." Health and Safety Executive, June 2013 <http://www.hse.gov.uk/pubns/indg364.pdf>; (accessed 12 June 2015).

<sup>59</sup> "Employment rights and pay for interns".

<sup>60</sup> However, in Australia, the court was willing to recognise as employment a 6-day placement based on the substantive measure where work was exchanged in return for a reference and a free hair cut. *Natasha Schultz v Tania Vlack (t/a Mega Hair and Beauty)*, South Australian Industrial Relations Commission, 44 (30 August 1996).

## *Structure*

There is a lot of commentary around structure in all the countries. However, there is a lack of enforcement surrounding the fluid terms of the structure.

In Canada, some provinces have given greater clarity to the structure and nature of the internship. In Ontario, a six-factor test must be satisfied in order for the intern not to be considered an employee.<sup>61</sup> This is similar to the six-factor test formulated by the Department of Labor in the United States whereby the employer must satisfy all the terms set out by the department: a mutual understanding that the intern will not be paid, educational content, benefit primarily going to the intern, no displacement of regular employee, the employer deriving no immediate advantage and no entitlement to a job following the internship.<sup>62</sup>

In Australia, the qualitative definition of the internship is vague, however there have been calls for a Code of Practice that guides the rule whereby the internship must be done as part of a requirement of a state-approved vocational course.<sup>63</sup> In the United Kingdom, work shadowing must be the main purpose of the internship.<sup>64</sup>

## *Quota*

There is no mention of quota in any of the countries.

## *Documentation and Enforcement*

In the absence of a clear definition, documentation and enforcement is difficult and patchwork at best. No written agreement is required for internships and the burden is on the intern to establish a case for the breach of labour laws.

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<sup>61</sup> "Are Unpaid Internships Legal in Ontario?" Ontario Ministry of Labour, last modified March 2014 [www.labour.gov.on.ca/english/es/pubs/internships.php](http://www.labour.gov.on.ca/english/es/pubs/internships.php) (accessed 28 May 2015)

<sup>62</sup> "Wage and Hour Division Fact Sheet 71# Internship Programs Under the Fair Labor Standards Act", United States Department of Labor, last modified April 2010 [www.dol.gov/whd/regs/compliance/whdfs71.htm](http://www.dol.gov/whd/regs/compliance/whdfs71.htm) (accessed 28 May 2015).

<sup>63</sup> "Volunteering and Unpaid Work Placements Among Children and Young People in NSW" Parliament of New South Wales Committee on Children and Young People, November 2014, p. 5 [http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/05e4b695f0e0366fca257d9e0016e44e/\\$FILE/Volunteering%20and%20unpaid%20work%20placements%20among%20children%20and%20young%20people%20in%20NSW%20\(Final%20Report\).pdf](http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/05e4b695f0e0366fca257d9e0016e44e/$FILE/Volunteering%20and%20unpaid%20work%20placements%20among%20children%20and%20young%20people%20in%20NSW%20(Final%20Report).pdf) (accessed 28 May 2015)

<sup>64</sup> "Employment rights and pay for interns".



In Canada and United Kingdom, the labour and tax authorities have on occasion investigated large firms for violation of labour laws in the use of interns as regular employees.<sup>65</sup> Yet given that the employment of interns is also prolific among small and medium-sized businesses, this form of enforcement is only useful when there is a certain economy of scale.

In the United States, the six-factor test has given some basis for interns to bring forward individual lawsuits as well as class action lawsuits to test the legislation.<sup>66</sup> This has been valuable in raising the profile of the issue to inspire similar actions in Canada and Australia.<sup>67</sup> However given the difficulties of evidence, and the power and resource imbalance between interns and the employers, the cases place a large risk on the inexperienced litigant.

### The international perspective

The comparison of domestic laws have highlighted the benefits of establishing a distinct employment category for interns as it allows for a balanced approach to wage allocation as well as providing internships with more quality and oversight.

Absent in this discussion has been the international dimension to the fluid labour market, which also extends to internships. While in France foreign students are also subject to the French law governing internships and in the Netherlands international students must also submit relevant documentation, there have been very little provisions protecting foreign interns otherwise.<sup>68</sup>

Given the growing market of for-profit companies servicing the demand of students wanting to gain professional experience overseas, the legislative vacuum in relation to foreign interns is of great concern.<sup>69</sup>

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<sup>65</sup> Colin Perkel "Crackdown on unpaid media internships in Ontario starts with major magazines", *The Canadian Press*, March 27, 2014. <http://o.canada.com/business/ontario-media-internship-crackdown> (accessed 2 June 2015); Rosemary Bennett, "Revenue in crackdown on unpaid internships", *The Times*, June 3, 2013. <http://www.thetimes.co.uk/tto/money/tax/article3781143.ece> (accessed 2 June 2015).

<sup>66</sup> Eriz Spitznagel, "Unpaid-Intern Lawsuits Explained", *Bloomberg Business*, 27 June, 2013. <http://www.bloomberg.com/bw/articles/2013-06-27/unpaid-intern-lawsuits-explained> (accessed 2 June 2015).

<sup>67</sup> James Cowan, "Unpaid Internships are unethical and uneconomical. Time to ban them", *Canadian Business*, 27 March, 2014 <http://www.canadianbusiness.com/blogs-and-comment/ban-unpaid-internships/> (accessed 2 June 2015); Michelle Innis, "Australia challenges unpaid internships", *Sydney Morning Herald*, November 10, 2014 <http://www.smh.com.au/business/australia-challenges-unpaid-internships-20141110-11juo1.html> (accessed 2 June 2015).

<sup>68</sup> Waheed, "Interns at Work", p. 4; Ministry of Security and Justice, Immigration and Naturalization Service <https://ind.nl/particulier/student> (accessed 15 May 2015)

<sup>69</sup> Gerry Shih, "Unpaid work, but they pay for privilege", *The New York Times*, August 8, 2009 [http://www.nytimes.com/2009/08/09/business/09intern.html?\\_r=0](http://www.nytimes.com/2009/08/09/business/09intern.html?_r=0) (accessed 2 June 2015); Josie Taylor "University students warned on overseas internships", *ABC News*, February 19, 2015 <http://www.abc.net.au/pm/content/2015/s4183403.htm> (accessed 2 June 2015).

Added to the theme of international students is the heavy reliance of international organisations on intern labour, as they are able to bypass domestic labour laws. This issue has been the main premise for the formation of InternsGoPro, the intern group based in Belgium. While Belgium has a robust definition for interns, the large number of international organisations in the country has meant that the law has largely been overlooked.<sup>70</sup>

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<sup>70</sup> Arjun Kharpal “Brussels intern protects working conditions, lack of pay”, *CNBC*, July 17. 2013. <http://www.cnbc.com/id/100892173> (accessed 2 June 2015).

### **Section 3: Internship advocacy organisations<sup>71</sup>**

The increasing use of internships has also seen the establishment of organisations to advocate in the interests of interns. These organisations take different forms, while having similar goals and utilizing a range of strategies for improving the rights and conditions of interns in their respective countries. They have had different degrees of success and all face similar barriers and difficulties.

All the intern advocacy groups we surveyed and looked at were run by young people with direct or indirect experiences of internships. By indirect we mean if they had not actually undertaken an internship themselves, their friends, or university and work colleagues did have such experiences.

A common feature in the establishment of intern organisations was the sense of unfairness or injustice experience by interns, particularly those undertaking unpaid internships. There was a growing unease that interns were being exploited, that the promise of decent jobs after completing internships was more a mirage, and that unpaid internships were pricing people out of decent work.

The demographics of those involved in the internship groups reflect the demographics of interns. Primarily tertiary educated, middle class young people, looking for work in professional fields. Their backgrounds range from law and business students and graduates to the creative arts.

The oldest organisation we surveyed was the French Génération Précaire which was established in 2005. Apart from Republica Degli Stagisti in Italy which began in 2007, all the other intern organizations were founded in the last 5 years.

#### *Organisational structure*

The organisational structures of the intern advocacy organisations we surveyed ranged from a loose collective to formalized incorporated bodies. The nature of the organisation tended to reflect the political culture and circumstances of the country when the organisation was established and the backgrounds and professional interests of the founders.

In France, Génération Précaire is a loose campaign oriented group with no formal leadership. It is a network orientated group that functions through calls to action based on information gathered from its members, other interns and friends. It began with an email from an intern outlining her experiences as that was read by other interns through various forums. Many other interns responded to her story and a meeting was arranged. At that first meeting, attendees decided to hold the “first interns strike to show the companies that without interns they can’t survive.”

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<sup>71</sup> Quotes and information provided in this section is taken from the surveys and interviews conducted by the authors as outlined in Appendix 1, unless otherwise noted.

The high incidence of interns in France, according to Génération Précaire there were 600 000 interns in France in 2006, and the sharing of experiences led to the organisation being established to campaign for rights for interns. While non-hierarchical in structure, it has around 10-15 active members from a mailing list of around 80 people.

Intern Labor Rights in the United States has a similar non-hierarchical structure. It describes itself as a grassroots organisation which does away with “the rigidity of structure to create a space for people who are excluded from the system to get involved and have a voice.” It operates on a consensus-based model where everyone can participate equally.

The structure of the organisation is a reflection of its genesis in the Occupy movement. The Occupy movement was a grassroots mobilization protesting growing income and wealth inequality summarised by their slogan “We are the 99%”. In early 2012 the Occupy Working Group Arts and Labor wrote an open letter to the New York Foundation of Arts demanding they stop posting classified advertisements for unpaid internships in the arts labour market. The Working Group was concerned with the way the term “internships” was being exploited in the arts community. It was becoming institutionalised that inexperienced entrants to the arts labour market were being taken advantage of. Ross Perlin’s book *Intern Nation* provided additional context for the problems facing interns in the United States.

Eric Glatt, who we interviewed in relation to Intern Labor Rights, had already filed a lawsuit in relation to an internship and attended a meeting of Occupy Working Group Arts and Labor and subsequently formed the sub-group, Intern Labor Rights. The sub-group was a recognition that internships are a part of the broader problem of increasing inequality. Consistent with this ethos, Intern Labor Rights has broader goals than some of the other groups. It describes its goals as: ending the practice of stealing people’s labour (wage theft); and encouraging further discussion around the political economy of laws wages and exploitation. It positions itself explicitly within the broader low wage workers’ movement.

We also note, in this context, the Carrot Workers Collective<sup>72</sup> based in London. We were not able to survey or interview members of the collective in the course of our research. However, they are another grassroots, non-hierarchical group primarily engaged in the creative and cultural sectors who explicitly positioning their advocacy and organising around the issues facing interns within the broader context of precarious work. Their website describes them as a

“group of current or ex interns, cultural workers and educators primarily from the creative and cultural sectors who regularly meet to think together around the conditions of free labour in contemporary societies.

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<sup>72</sup> The names comes from “the proverbial carrot dangled in front of emerging cultural workers with the promise that working for free will eventually lead to a paid position.” <http://fusemagazine.org/2012/01/carrotworkers-collective> (accessed 2 June 2015)

We are undertake participatory action research around voluntary work, internships, job placements and compulsory free work in order to understand the impact they have on material conditions of existence, life expectations, subjectivity and the implications of this for education, life long training, exploitation, and class interest.”<sup>73</sup>

The Carrot Workers Collective are now affiliated with the Precarious Workers Brigade - a “UK-based group of precarious workers in culture & education. We call out in solidarity with all those struggling to make a living in this climate of instability and enforced austerity.”<sup>74</sup>

The other intern advocacy organisation we surveyed that operated on a non-hierarchical basis was the student-run Students Against Unpaid Internship Scams based in Ontario, Canada. This organisation was established in 2013 by students with the aim of campaigning for the provincial Ontario government to take action on unpaid internships. Unpaid internships were becoming increasingly common and there was a noticeable lack of enforcement of existing minimum wage laws. There was also a political opportunity with a minority government to push for legislative reform in the context of media attention on illegal unpaid internships. Josh Mandryk and Ella Henry, who co-founded the group, were both law students at the time. The group then expanded to a broader coalition of students and young people. It has no formal membership structure and primarily operates on a campaign by campaign basis.

The goals of the organisation include ensuring proactive enforcement of the law in relation to unpaid internships; a public education campaign for students, young people, employers and post-secondary education institutions to know their legal rights and obligations; and to undertake a comprehensive review of all the laws surrounding unpaid internships.

In contrast, the Canadian Intern Association (CIA) is an incorporated not for profit organisation. Established in 2012, by Claire Seaborn after her first year of law school, its structure encompasses an Executive made up of six young professionals in Toronto from diverse professional backgrounds, an Advisory Board of experienced professionals to offer strategic advice, and around 20 volunteers. It has no formal membership but operates a mailing list and social media accounts. A number of people involved with Students Against Unpaid Internship Scams are now engaged with the Canadian Interns Association, including Josh Mandryk.

The goals of CIA are to advocate against the exploitation of interns and to improve internship experiences, including by improving workplace rights both in law and practice for interns. It doesn't seek to abolish all internships but is opposed to unpaid work outside of school programs. Ms Seaborn founded the organisation because she saw interns needed a voice and because of her interest in legal issues. A key influence on setting up the organisation was a LLM thesis written by employment lawyer Andrew Langille which provided a basis for understanding the law on interns, which was otherwise little understood by employers, interns or the general public.

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<sup>73</sup> <https://carrotworkers.wordpress.com/> (accessed 4 June 2015)

<sup>74</sup> <http://precariousworkersbrigade.tumblr.com/> (accessed 4 June 2015)

Internship advocacy groups in the United Kingdom and Australia follow a similar pattern. Intern Aware in the UK was established by two people with backgrounds in public relations and law who had both had positive internship experiences but who saw their bright, hardworking friends being priced out of the labour market by unpaid internships. They set up a Facebook group called “Interns must be paid a minimum wage” and thousands of people joined in a short period of time, demonstrating there was a demand to address the issues on a larger scale. There were no other civil society groups engaged with the issue at the time. However, the impact of rising youth unemployment was starting to be felt after the Global Financial Crisis and a report on social mobility released by Alan Milburn, former Health Secretary in the Labour Government, considered internships to be part of the problem. Additionally, the Conservative government at the time introduced tougher measures for unemployed young people to access welfare.

Intern Aware is governed by a Trustee Board, and has no membership base. Its campaigns are run by supporters and activists. Its initial goal was to raise awareness of the issues facing interns in the public and political realm. It then looked to engage the government in enforcement practices and help interns claim back pay. Its current campaign is for a four week limit on unpaid internships.

In Australia, Interns Australia was established in 2013 as an incorporated body run by an Executive Board, who are professionals in the legal, public relations, economics and creative arts fields. A number of the founders of Interns Australia know each other through other activist circles, including the Australian Youth Climate Coalition and the Sydney Alliance. Interns Australia is a membership-based organisation with an overall goal of promoting fair internships and work placements, including remuneration and genuine opportunities for training and professional development.

Repubblica Degli Stagisti in Italy is unique in that it is a journalistic website. Its founder and editor-in-chief, Eleonora Voltolina, is a journalist with a passion for labour market issues, who founded the project initially as a blog before turning it into an independent journalism enterprise. She had noticed there had been an increase in interns in Italy and if you searched for information for interns you could not find any. The project pays its writers and the people who work on the website. Its goals are to provide information to young people to let them know their rights, the law, and the situation in the labour market; to lobby for better rights and conditions for interns and young workers; and to change the culture around young workers in Italy.

A further group of internship organisations exist around the intern programs of international bodies, such as the United Nations and related organisation in Geneva, the International Criminal Court and related Tribunals in The Hague, and the European Union’s institutions in Brussels.

The Geneva Interns Association (GIA) was established in 2011 by 24 interns from eight different organisations. The information presented on GIA is derived from its website as we were unsuccessful in

surveying or interviewing members of the organisation.<sup>75</sup> GIA's primary focus is to help connect interns with people and events in Geneva as well as "to provide social, professional and academic growth opportunities while in Geneva." While there already exists internal interns organisations within institutions based in Geneva such as the ILO, WTO, WHO, IFRC, UNOG, ITC, CERN and UNHCR, Geneva Interns Association wanted to bring together these already existing associations to facilitate communication, interaction and better information sharing among interns. GIA also aims serve interns from smaller NGOs, companies and permanent missions who do not have their own intern associations.

Geneva Interns Association is an incorporated association governed by an Executive Board elected by its membership. It also has a number of committee that are responsible for the work of the organisation. The key goal of GIA is to better organise events and initiatives to enhances the overall internship experience for everyone. The mission of GIA is described as having three elements:

- the Professional Welfare of Interns, including campaigning to improve working conditions, and seeking fair remuneration, diversifying the accessibility of internship programs, particularly increasing participation from developing nations, and professional development;
- Life Beyond Work, including social events, sharing knowledge on living in Geneva, strengthen the community of interns, and providing a point of contact for interns in Geneva; and
- Continuity and a Lasting Institution, passing experience and information from one generation of interns to the next.

InternsGoPro is a youth employment organisation focused on interns based in Brussels that was established in 2013. It was founded by four people with experience of unpaid internships from backgrounds in the fields of law, philosophy, economics and sociology. The founders considered Belgium to have an appalling situation for interns due in large part to the presence of international institutions, such as the European Commission. The organisation considered internships were mostly unpaid and often provided through nepotism. They were also aware of the internship organisations in France and the United Kingdom.

Six months after being established InternsGoPro became registered as a formal non-government organisation in Belgium. A number of other similar initiatives were springing up in the same geographical area, for example Internship Blacklist, and it was felt a formal organisation would be useful. It is not a membership-based organisation and operates with six key people. Its mission is to boost youth employment & promote internships that truly help students & graduates develop skills and get a job.

The Hague Interns Association was established in 2013 by three young people with experience of unpaid internships at the Special Tribunal for Lebanon. There was discontent amongst interns around lack of pay, long hours, lack of insurance coverage, minimal opportunities to work towards paid job opportunities and general low morale. The founders were aware of the Geneva Interns Association and wanted to create something similar in The Hague. Its goals were to improve intern welfare and promote

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<sup>75</sup> <http://internsassociation.org/> (accessed 5 June 2015)

intern rights. It was incorporated as a non-government organisation with an executive committee. However it ceased operating in mid-2014.

### *Strategies*

The various intern advocacy groups have a number of common strategies including education of both interns and employers; political lobbying for legislative and policy change; and increasing the public profile of the issues through engagement with the media. Some groups also engage with direct action protests and rallies, while other have a focus on support and facilitating social connections with other interns.

All groups saw education of interns, employers, politicians and the public on the issues facing interns as a key element in achieving their goals. Education strategies are pursued through means such as meetings, websites and social media, addressing young people on university campuses and schools, and the development of materials. The materials developed by the advocacy groups served two main functions: one, presenting to problem, that is, the statistics and information on the problems issues interns; and two, information for interns and employers on their respective rights and responsibilities.

Websites play an important role in the education strategy of most of the organisations. Educational materials are found on websites and promoted through social media as well as face-to-face meetings. The Canadian Interns Association describes their website as “our strongest educational tool, and we have received a lot of positive feedback about the need for online resources for young workers’ rights.” Interns groups have used naming and shaming practices on their websites such as the Canadian Interns Association “Wall of Shame”, along with a “Wall of Fame”, while InternsGoPro has a rating system for internship programmes. Both Interns Aware and Canadian Interns Association provide assistance through their website for people seeking to claim backpay for their internships. Repubblica Degli Stagisti is a journalism website that has as a key aim of providing information to interns on labour issues.

Along with education, the other most prominent strategy was seeking to influence politicians for law reform to better protect interns. Groups engaged with the usual political lobbying tactics of meeting with politicians, engaging with parliamentary or government processes such as inquiries, and providing briefing materials and policy solutions. In France and Italy there have been important legislative reforms to better protect interns. In the UK and Canada lobbying has resulted in bills being presented to parliament by non-government members. The political lobbying occurred at all levels of government, regional and national, and at the European Union level for some of the European organisations.

All groups reported some success in attracting media attention as part of their attempts to influence public debate and governments. Repubblica Degli Stagisti in Italy has just released an app for phones and other devices to deliver its web-based services as easily as possible to its audience.

Legal strategies have also been employed which have had the effect of not just resolving individual claims but bringing the issue to broader attention and encouraging changes within enterprises as to how



they manage their internship programs. Eric Glatt, from Intern Aware, ran a high profile case that was successful in the first instance against Fox Searchlight Pictures arguing they had violated federal and New York minimum wage laws. The court found that Glatt and his fellow plaintiff were employees entitled to the minimum wage. The decision reinforced the Department of Labor's six criteria for unpaid internships and found that in this case they were not met. The court found that while the plaintiffs received benefits from their work those benefits were incidental to the work similar to benefits enjoyed by employees. Notably the court found that, "Searchlight received the benefits of their unpaid work, which otherwise would have required paid employees. The decision is currently being appealed. Other cases brought unpaid interns have resulted in out of court settlements for back pay."<sup>76</sup>

In Canada and Australia heightened attention on unpaid internships have led to the relevant enforcement agencies taking a more proactive approach and prosecuting employers for unpaid wages where interns have been found to be employees.<sup>77</sup>

The lack of information about interns, their rights and experiences has also meant some groups have engaged in research projects. The Canadian Interns Association for example has participated in several university based projects in relation to interns.

The more grassroots organisations such as Intern Labor Rights and Students Against Unpaid Internship Scams tend to be more campaign focused looking at mobilizing and organising interns and young people around the issues, including through rallies and protests.

As mentioned above the Italian Repubblica Degli Stagisti is a journalistic enterprise focused on presenting information to interns and young workers and reporting on the issues they face and the politics surrounding the issues. The project also engages in lobbying for reforms. The project is funded by enterprises and companies paying a fee to the project for being promoted on the website after meeting criteria for good internship programs. Companies that meet the criteria and pay the fee are also able to advertise for internships on the website. The two criteria are: transparency - the enterprises have to be public about their business, for example, how many employees and how many trainees they have in a year, how much do they pay interns and what other facilities do interns receive, what other types of contracts does the business have for young people; and economic – the business has to pay interns. Unpaid internships are unfair. In Italy interns are usually 25 or 26 years old not 18 or 19 and have families and other responsibilities. The minimum payment is 500 euros per month, or for students 250 euros a month. About 35 enterprises are have applied and met the criteria.

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<sup>76</sup> Steven Greenhouse, "Judge rules movie studio should have been paying interns", *New York Times*, 11 June 2013 <http://www.nytimes.com/2013/06/12/business/judge-rules-for-interns-who-sued-fox-searchlight.html? r=0> (accessed 12 June 2015)

<sup>77</sup> For Australia see <http://www.fairwork.gov.au/about-us/news-and-media-releases/2014-media-releases/august-2014/20140812-interns-unpaid-work-update> (accessed 12 June 2015). Information about Canadian enforcement activities were provided in survey responses by Students Against Unpaid Internship Scams.

InternsGoPro has also taken the path of developing an accreditation scheme for internships. The European Label for Quality Internships is available to employers who pay a fee and commit to six criteria: remuneration, clear information, learning content, supervision, positive work environment, and career development and job opportunities. Four employers have already applied for and received the Label which has been endorsed by high level European public figures. Interns Australia is also in the process of developing an accreditation scheme as a strategy to change the culture of internships.

### *Successes*

Given the relatively recent establishment of most of the organisations we surveyed or interviewed, there have not yet been many tangible successes. The most significant successes so far have been in France and Italy where the intern advocacy groups have operated the longest. In 2014 France passed the legislation referred to above, giving recognition, rights and protections to interns. In Italy in 2013, after much lobbying, new regulations were passed mandating minimum pay for interns, between 300 – 600 euros a month depending on the region.

There has also been some limited success at the European level, at least in getting more attention on the issue. A number of organisations including *Republica Degli Stagisti* and *Génération Précaire* along with youth councils and the European Confederation of Trade Unions have developed a Charter for Quality Internships and Apprenticeships.<sup>78</sup>

In Ontario, Canada, the provincial government conducted an enforcement blitz in response to media and campaign pressure from interns on the issue of unpaid interns. *Students Against Unpaid Internship Scams* played a role in achieving this outcome.

However, organisations have had other perhaps less tangible but still important outcomes, including increasing education, publicity, and continuing to build political support on the issues confronting interns. The other noticeable achievement that was mentioned was building a sense of community among interns through sharing stories and experiences.

### *Barriers*

The biggest barrier or difficulty faced by all the organisations we surveyed and interviewed was lack of funds and financial security. They are all small organisations, operating on limited funding and usually through the volunteer efforts of the people involved. Therefore, much of the work required to be done in implementing their strategies and achieving their outcomes is done by people in their spare time between work and/or study.

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<sup>78</sup> <http://qualityinternships.eu/> (accessed 11 June 2015)

Republica Degli Stagisti is an exception in that it has an independent funding base. However, it faced severe financial difficulty in the financial crisis of 2013 and almost closed. However, it has survived and continues to operate and is able to pay its freelance writers.

The other noticeable difficulty is the temporary nature of internships and the fact that people move in and out of the organisations and internships on a regular basis. This reason was cited by the Hague Interns Association as a key reason for its closure in 2014.

Other challenges named by those we surveyed included the slowness of achieving change and the lack of political will to ban unpaid internships outside of formal education programs, and a lack of organising and campaign skills within their organisations.

Most of the organisations had no specific plans for more than the next year or two in advance. Mostly, they are attempting to consolidate their current projects and work, possibly expand geographically, in difficult financial circumstances.

### *Relationships*

The intern advocacy organisations reported generally good relationships with other relevant stakeholders such as other student groups, trade unions, academics, some business organisations, and members of parliament.

Unions have generally not taken the lead on internships issues. Interns are often seen as falling outside the scope of union activity as they are not considered workers and because of the transitory and short-term nature of internships. However, some of the groups we spoke to have formed important relationships with unions, putting the issues of interns, and particularly unpaid internships, on the union agenda. In Italy, the unions were initially not very interested in the issues facing interns as they did not view interns as workers. However, Republica Degli Stagisti has built relationships with unions over the past five years and the unions are now incorporating intern issues into their work and providing support to the campaigns concerning interns. In the United Kingdom, Intern Aware reports that unions have been very supportive, including providing financial support for their activities. In the United States Intern Labor Rights have formed close relationships with other organisations in the labour rights movement. In Australia, the union movement has started to take an interest in the issue with the Australian Council of Trade Unions recently incorporating intern issues into their youth policy.<sup>79</sup>

The majority of the groups we surveyed and interviewed had engaged with the International Coalition of Fair Internships (ICFI).<sup>80</sup> The ICFI is a means by which intern advocacy groups from around the world can communicate and share experiences and knowledge. However, like many peak bodies of small primarily

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<sup>79</sup> “Organising Young Workers - Final Policy”, Australian Council of Trade Union Congress, last modified May 2015 <http://www.actu.org.au/actu-congress-2015/congress-policy-resolutions/workers-rights-policies/organising-young-workers> (accessed 8 June 2015)

<sup>80</sup> <http://fairinternships.org/> (accessed 13 June 2015)

volunteer-based groups, the ICFI relies on individuals to drive it, which in turn relies on the people already committed to advocacy in their own countries. However, organisations do find the connections provided through ICFI to be very valuable, including for providing the possibility for coordinated international action.

## **Conclusion**

Intern advocacy organisations face many of the same barriers as other groups working for the rights of vulnerable workers. They are all small, under-resourced organisations mostly relying on the voluntary labour of their members. The transitory and short-term nature of most internships is a further barrier.

However, in the face of these difficulties young people are organising, running campaigns, lobbying for political reform and using the traditional media and social media tools in furthering their aims for increased rights for interns. They have already been successful in raising the profile of the issues faced by interns, particular in relation to unpaid internships. The success in some countries of legislative reform and in others of enforcement of existing laws shows protections for interns can be won.

Into the future the circumstances facing young workers is likely to remain challenging. Young people will continue to be affected by difficult economic circumstances and austerity politics along with the changing nature of work. Intern advocacy organisations will continue to be very important in educating interns and employers about their rights, advocating for better protections and creating cultural change that values the work of young people.

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## Appendix I: Survey and Interviews

### The Survey

Thank you for participating in our research on internship advocacy organisations around the world. Our research is for a paper to be presented at the Regulating Decent Work conference hosted by the ILO in Geneva in July. We are seeking to present a comparative analysis of the organisations that advocate for interns and the strategies used to improve conditions for internships.

We have divided the questions into three categories: the establishment of your organisation; the operation of your organisation; and the advocacy work of your organisation.

Answers can be brief and dot points are fine. If you have publications or webpages with relevant information feel free to provide a link in response to a question. We will contact you for a follow up interview to expand on any answers as necessary.

We will make our findings available to you once our research is complete.

Thank you again.

Regards

Colleen Chen, Interns Australia, and Clare Ozich, Australian Institute of Employment Rights

#### 1. Details:

- Organisation
- Name(s) of people completing the survey
- Position(s) of people completing the survey
- Email address(es)

#### Establishment of your organisation

2. When and how was your organisation created? Please provide a brief history of the establishment of your organisation.

3. What were the circumstances in your country/region that led to the organisation being established? If relevant, what literature influenced the founding of your organisation?

4. Who set up the organisation? What was their educational/professional background? Did the founders have personal experiences doing unpaid internships? What was the relationship, if any, between the founders (eg worked as interns at the same organisation/studied at the same university)?

5. Did you have any connection with the International Coalition of Fair Internships prior to your founding, and if so which groups? Were there other intern groups in your country?

Operation of Organisation

6. Does your organisation have members? (If No proceed to Question 7)

Yes/No

7. Membership:

- how many members to you have?
- are members primarily current interns? If not, what other groups of people join your organisations?
- what is the turnover of members, eg do they leave once finished university or have entered employment?
- how do you recruit new members?
- how is membership important to your organisation eg organisational roles, funding, political influence?

8. Organisational structure:

- Describe the structure of your organisation. Are you incorporated? Is it hierarchical or network oriented?
- How do you attend to handover of roles, particularly in leadership positions?
- If you've ceased operation, what was the main reason?

9. Funding:

- what is your main source of funding?
- are you financially viable?

Advocacy Work

10. What is the overall goal of your organisation?

11. What are the primary strategies you use? How are your goals reflected in your strategy? (eg, education of interns, education of employers, political lobbying for legislative change, organising )

12. Describe your successes so far. What have been the important factors in your successful outcomes?

13. What are the barriers or challenges your organisation have faced in achieving your goals?

14. What is your organisation's relationships, if any, with other stakeholders, including unions, business organisations or individual businesses, student groups, political parties? Have any of these relationships presented challenges or insights for the organisation or impacted internal decision-making?

15. What is the outlook for your organisation over the next one year and three years; and have you planned beyond a five year outlook?

The survey was conducted using Survey Monkey. Below are the details of the organisations that completed the survey.

<b>Organisation</b>	<b>Name and position of person completing the survey</b>	<b>Date of completion</b>
Canadian Interns Association	Claire Seaborn, President	30 April 2015
Interns Australia	Adi Prasad, former Executive Director	10 May 2015
InternGoPro (Belguim)	Pierre-Julien Bosser, President	15 May 2015
Génération Précaire (France)	Vincent Laurent, Member	16 May 2015
Students Against Unpaid Internship Scams (Canada)	Josh Mandryk Co-Chair	16 May 2015
Hague Interns Association	Cristina Bacalso, Co-Founder and former Communications Officer	18 May 2015
Students Against Unpaid Internship Scams (Canada)	Ella Henry, Co-Chair	22 May 2015

#### **Interviews conducted over the internet**

<b>Organisation</b>	<b>Name and position of person interviewed (Interviewer)</b>	<b>Date of completion</b>
Intern Labor Rights (US)	Eric Glatt, Participant (Colleen Chen)	22 May 2015
Intern Aware (UK)	Ben Lyons, Co-founder (Colleen Chen)	23 May 2015
Republica Degli Stagisti (Italy)	Eleonora Voltolina, Founder and Editor-in-Chief	8 June 2015

#### **Other organisations referred to in the paper that we were not able to survey or interview, instead relying on publicly available information on their websites**

Carrot Workers Collective (UK) - <https://carrotworkers.wordpress.com/>

Geneva Interns Association - <http://internsassociation.org/>