

WAGE THEFT IN SILENCE

*Exploitation of international students in the workplace:
Why do so few come forward?*

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Law



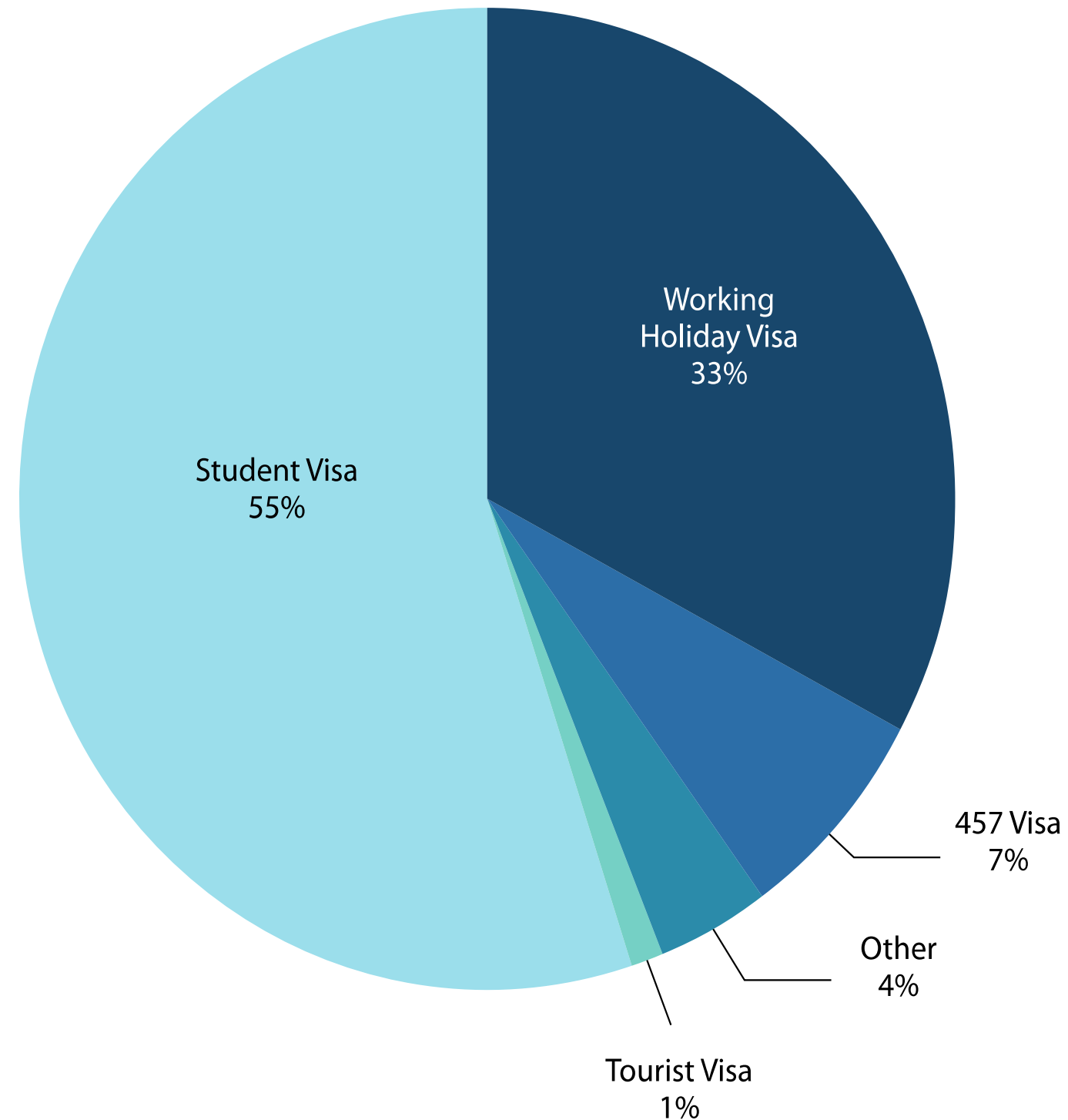
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About the survey

- Anonymous, online, open to anyone who worked on a temporary visa in Australia.
- 32 multiple choice questions, available in 12 languages plus English.
- Topics included:
 - **Participants' personal characteristics** including nationality, year of arrival and gender.
 - **Features of participants' lowest paid job in Australia**, including their hourly rate of pay in that job, type of job, visa while in that job (and for students, name of educational institution), average weekly hours, method of finding the job, geographic location of that job, whether they were paid by cash or bank transfer and whether they received pay slips.
 - **Participants' experience of some other indicators of exploitation**, at any stage during their time in Australia. These include payments for the job up-front, passport confiscation, payment of cash back to an employer, and immigration-reporting threats.
 - **Participants' knowledge and perceptions**, such as their knowledge of the minimum wage and their perception of the proportion of people on their visa who are underpaid.
 - **Reporting underpayment and access to remedies**, including where participants went for help, outcomes of their efforts, and barriers that stopped underpaid participants taking action.

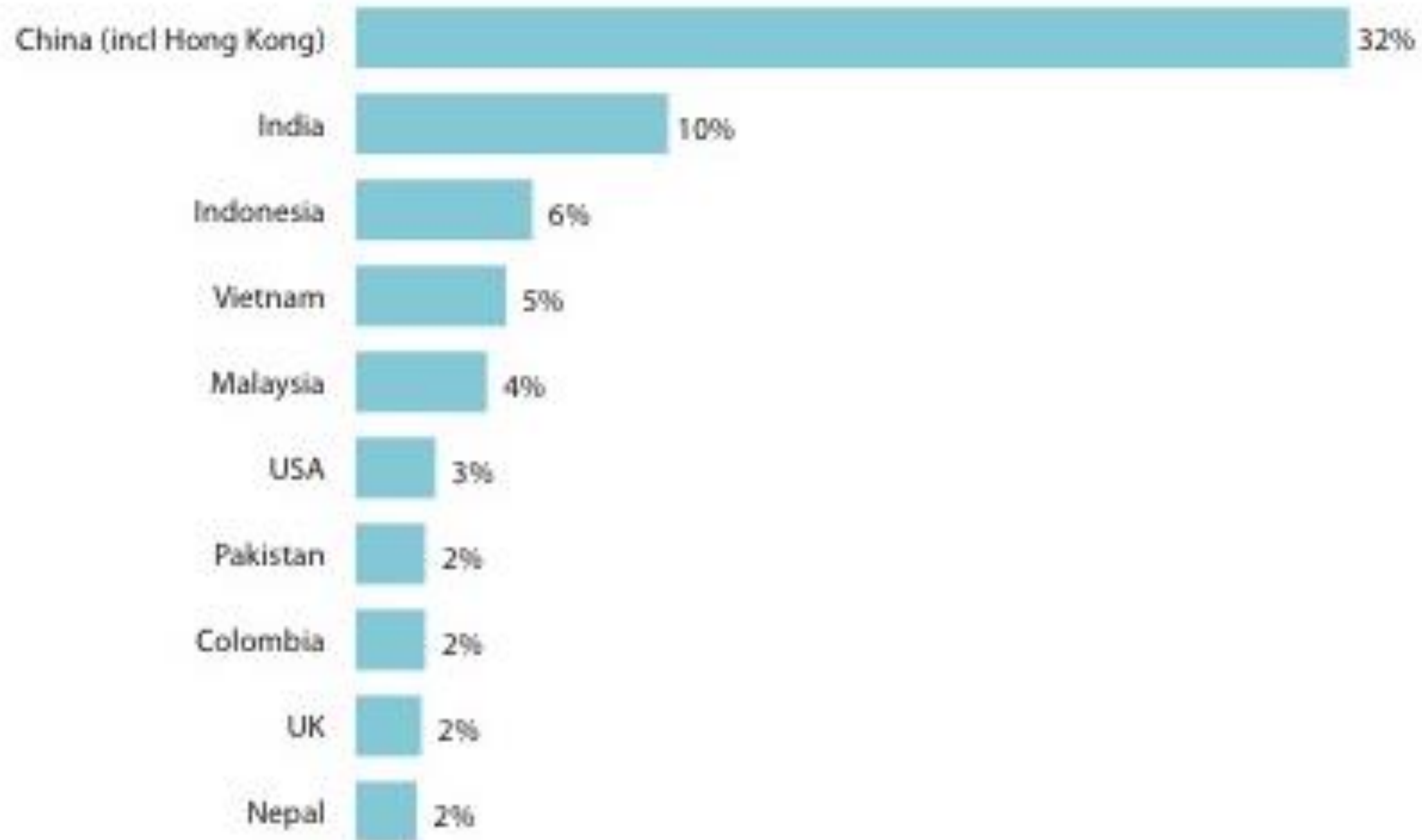
Participants' visa during lowest paid job



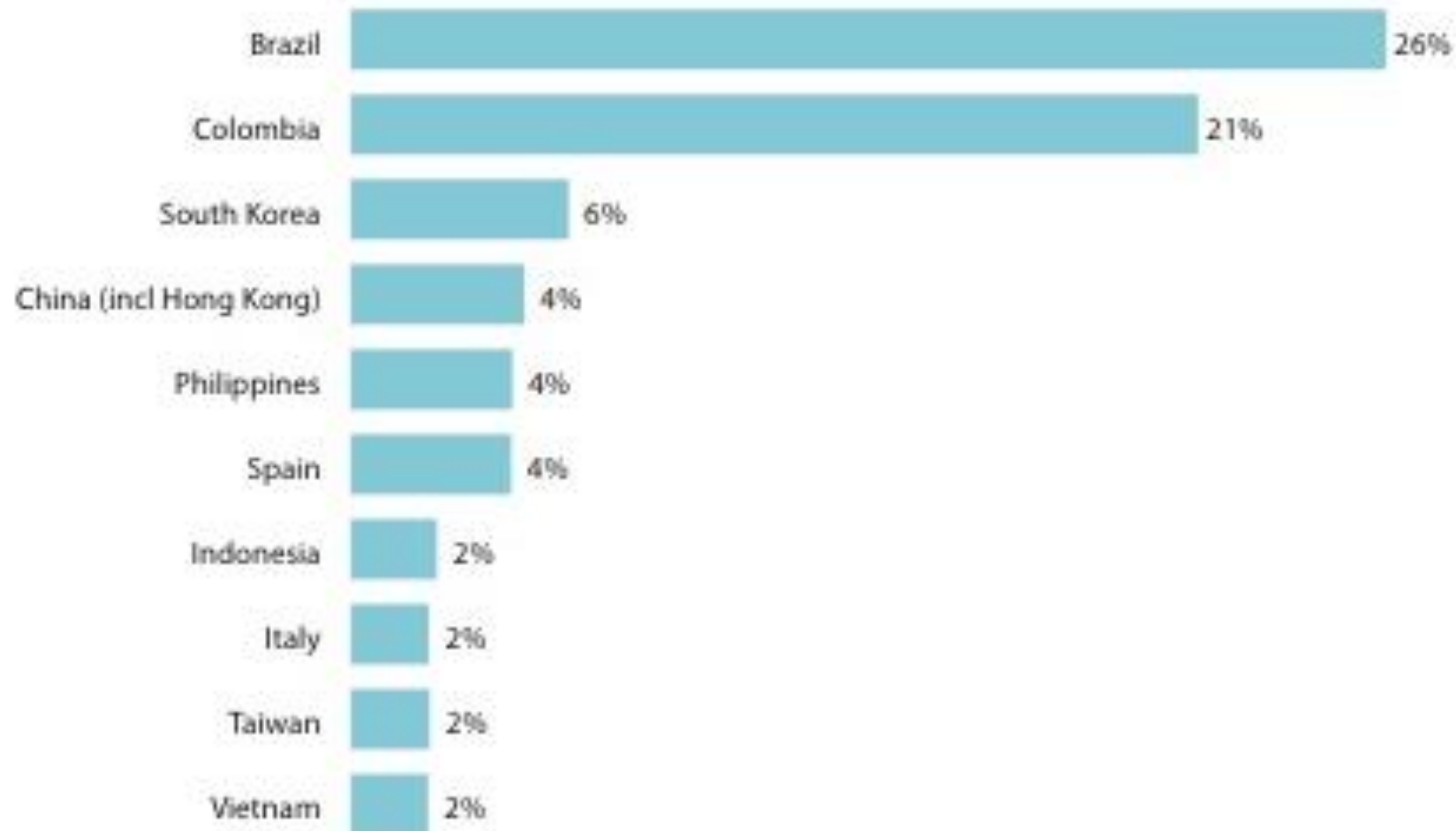
Students:

- 77% (1705) studied at a university
- 23% (523) studied at VET/ELICOS college

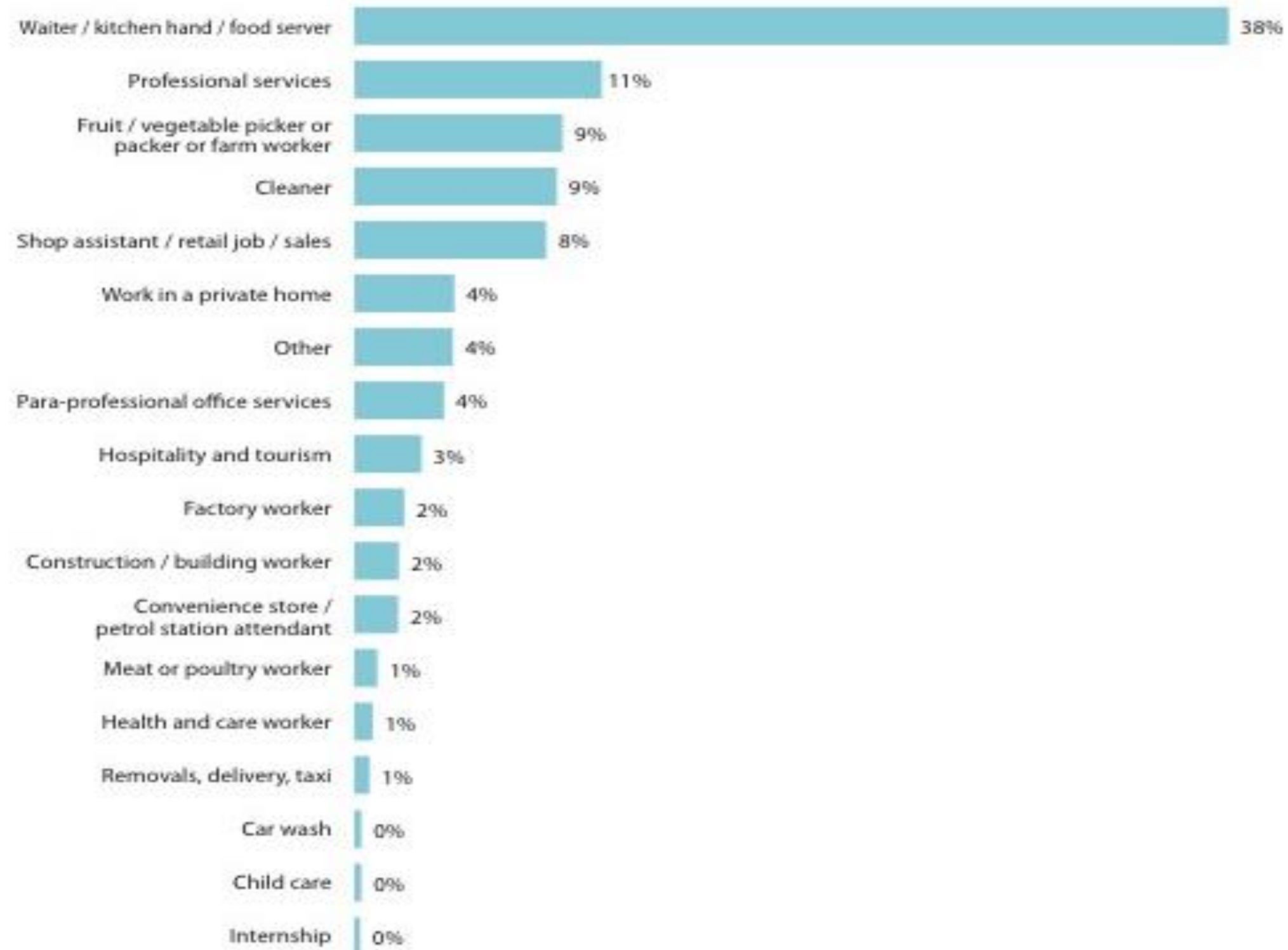
Top 10 nationalities of international students studying at a university



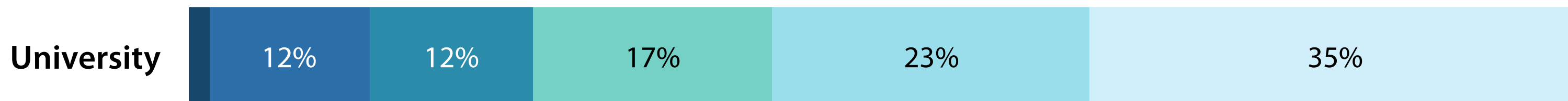
Top 10 nationalities of international students studying at an ELICOS or VET college



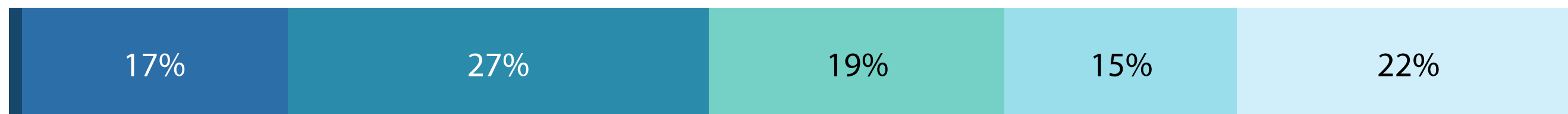
Participants' lowest paid job



Hourly wage rates in international students' lowest paid job



Hourly wage rates in participants' lowest paid job for students working 21 hours or more per week



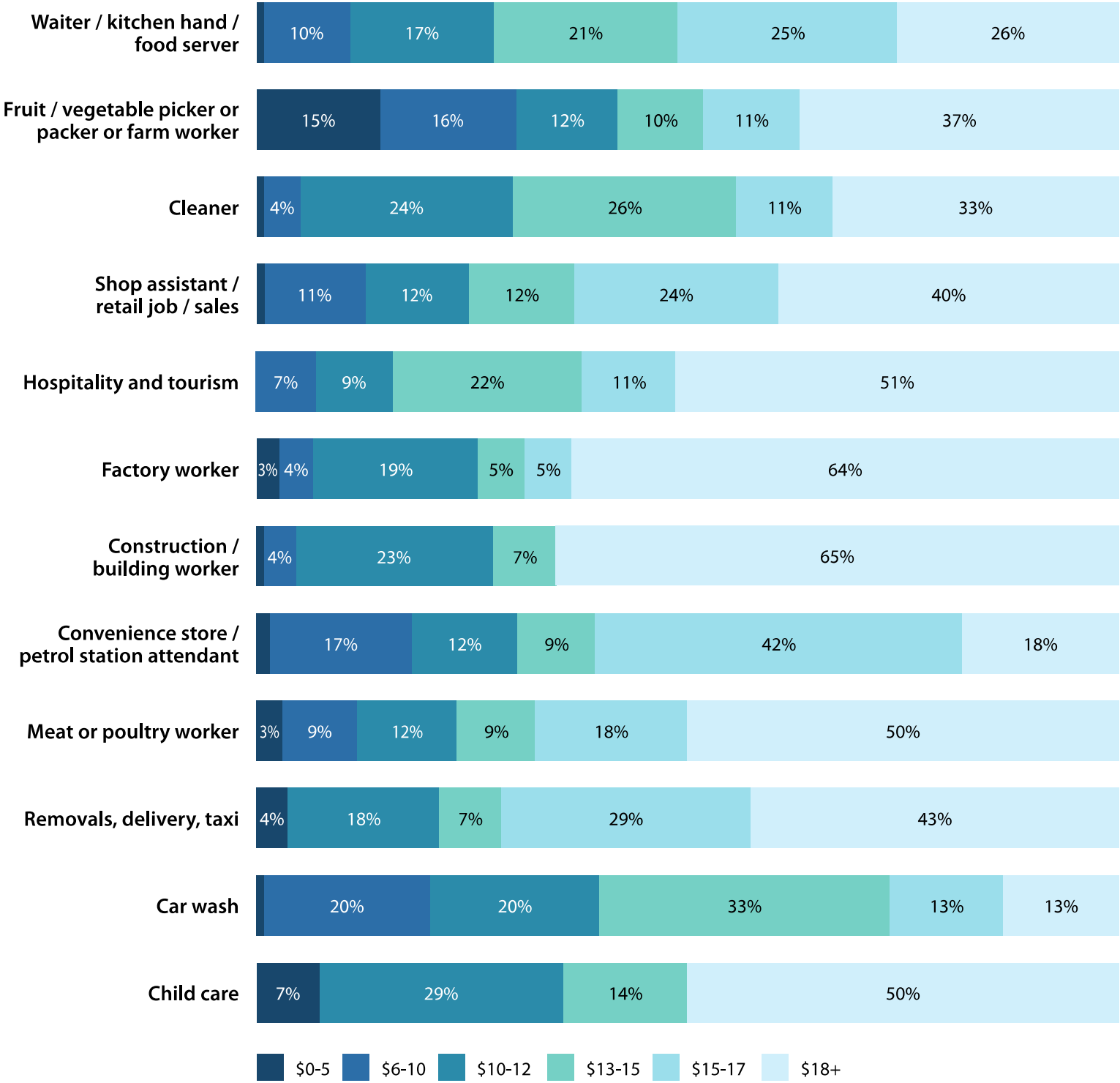
Key findings on rates of underpayment

- Almost a third (30%) of participants earned \$12 per hour or less.
- A quarter (25%) of international students earned \$12 per hour or less; 43% earned \$15 or less.
- A third (32%) of WHMs earned \$12 per hour or less; 46% earned \$15 per hour or less.

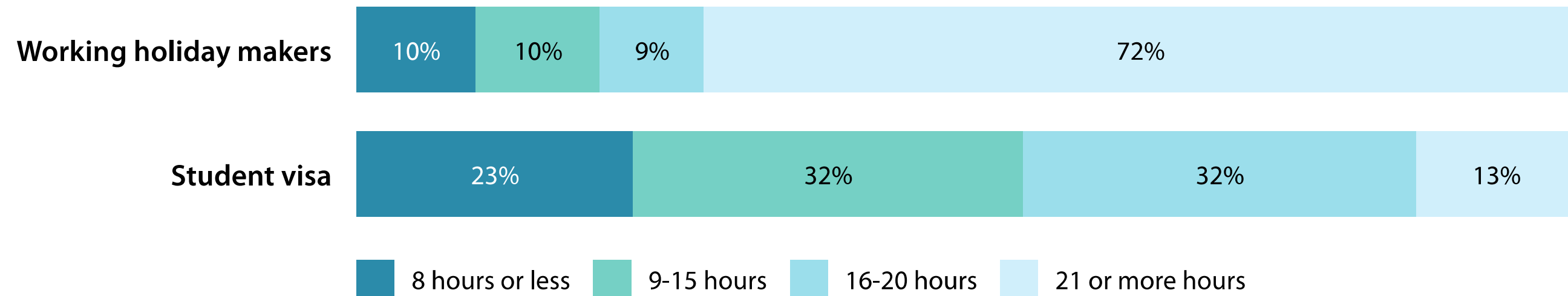
Cash payments and non-provision of pay slips

- 50% of participants rarely or never received a pay slip in their lowest paid job
- 49% of international students were paid in cash in their lowest paid job
- 70% of participants earning \$12 per hour or less were paid in cash
- Cash payments were most prevalent among Chinese (65%), Korean (55%) and Colombian (46%) participants

Wage rates by job type



Average hours worked per week in lowest paid job



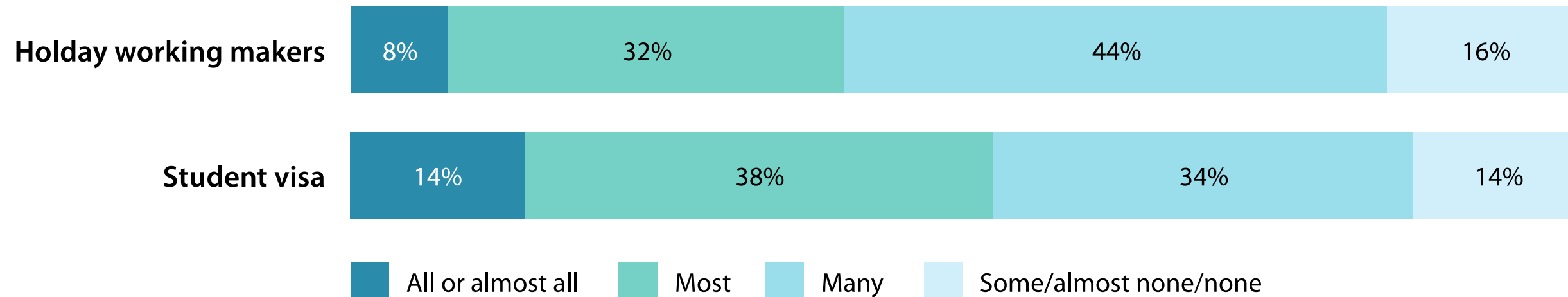
Knowledge of minimum wages

Participants earning \$15 per hour or less who knew the minimum wage in Australia is \$16 per hour or more, comparing visa classes



Perception of the prevailing wage among migrants on the same visa

Responses of international student and Working Holiday Maker participants earning less than \$15/hour to the question: 'What proportion of temporary visa holders on your visa do you think are paid less than \$17.70/hour?'



Avenues for wage recovery in Australia

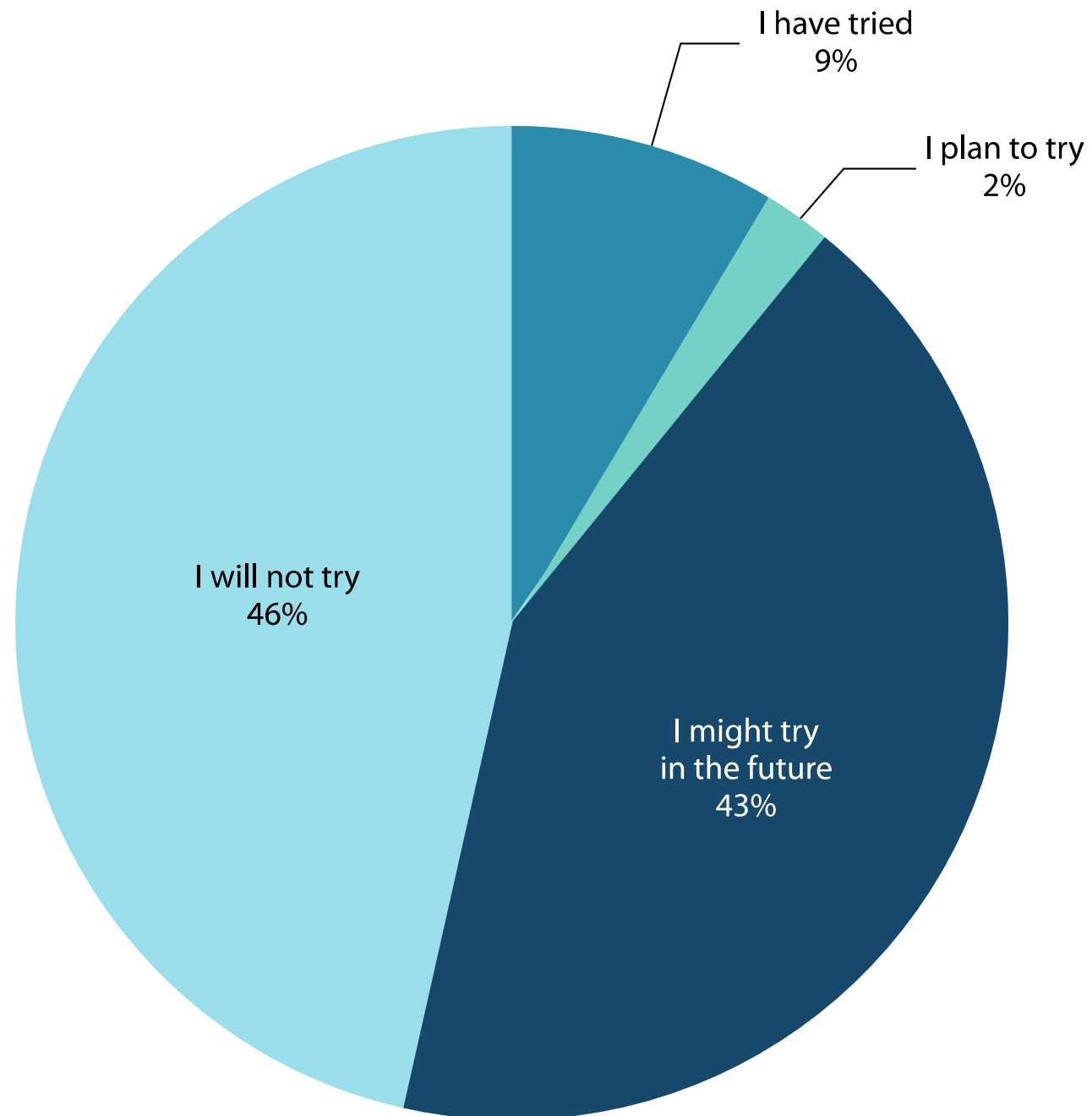
- Trade unions and legal service providers
 - Migrant workers less likely to seek union assistance (4% of survey participants were members of unions in Australia)
 - Affordable legal advice and representation highly limited
- Courts
 - Federal Circuit Court of Australia and Magistrates Courts provide small claims jurisdiction for matters seeking less than \$20,000
 - Migrant workers require legal assistance, in order to fulfil evidentiary and procedural requirements

Avenues for wage recovery in Australia

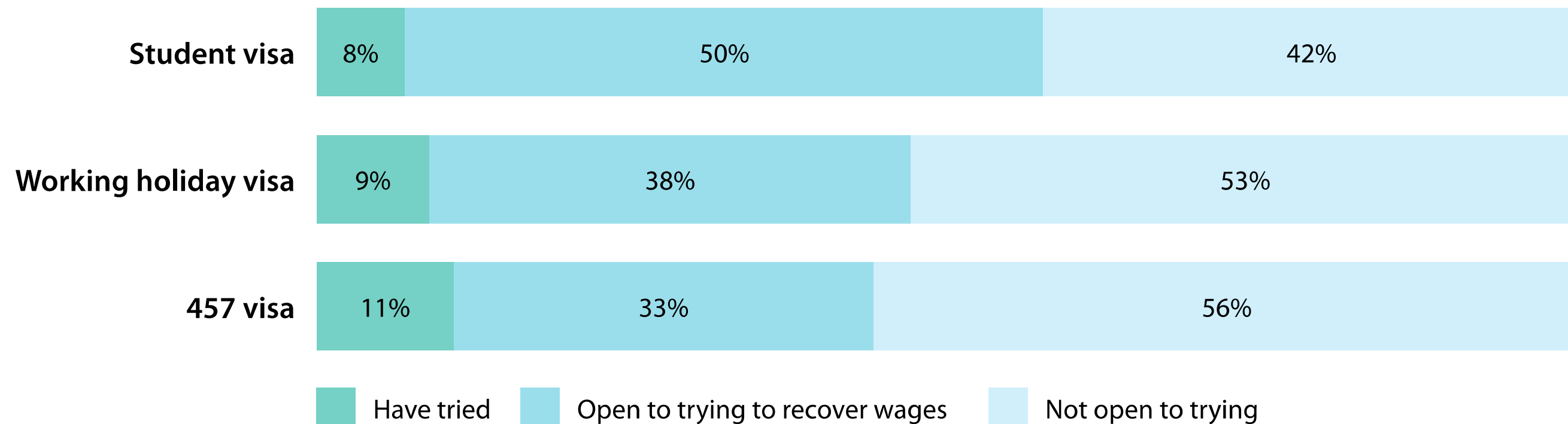
- Fair Work Ombudsman

- Principal avenue through which migrant workers currently seek remedies
- The FWO's core functions oriented to strategic enforcement and deterrence
 - Range of administrative sanctions
 - Contraventions involving visa-holders significantly overrepresented in the FWO's enforcement action
- Remedies and individual worker assistance not a primary objective for the FWO

Did participants try to recover unpaid wages?



Whether participants tried, were open to trying or not open to trying to recover unpaid wages, by visa in lowest paid job

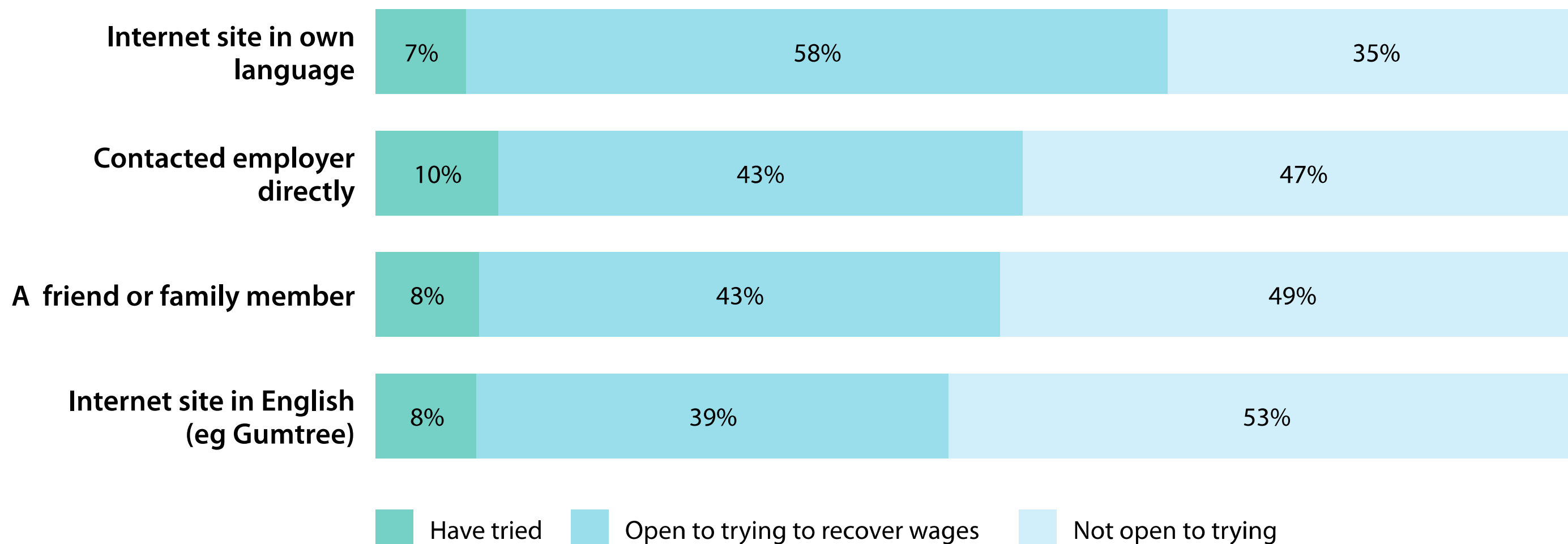


Among university students, 7% had tried to recover wages, 55% were open to trying, and 41% would not try. Among college students, 9% had tried to recover wages, 43% were open to trying, and 47% would not try.

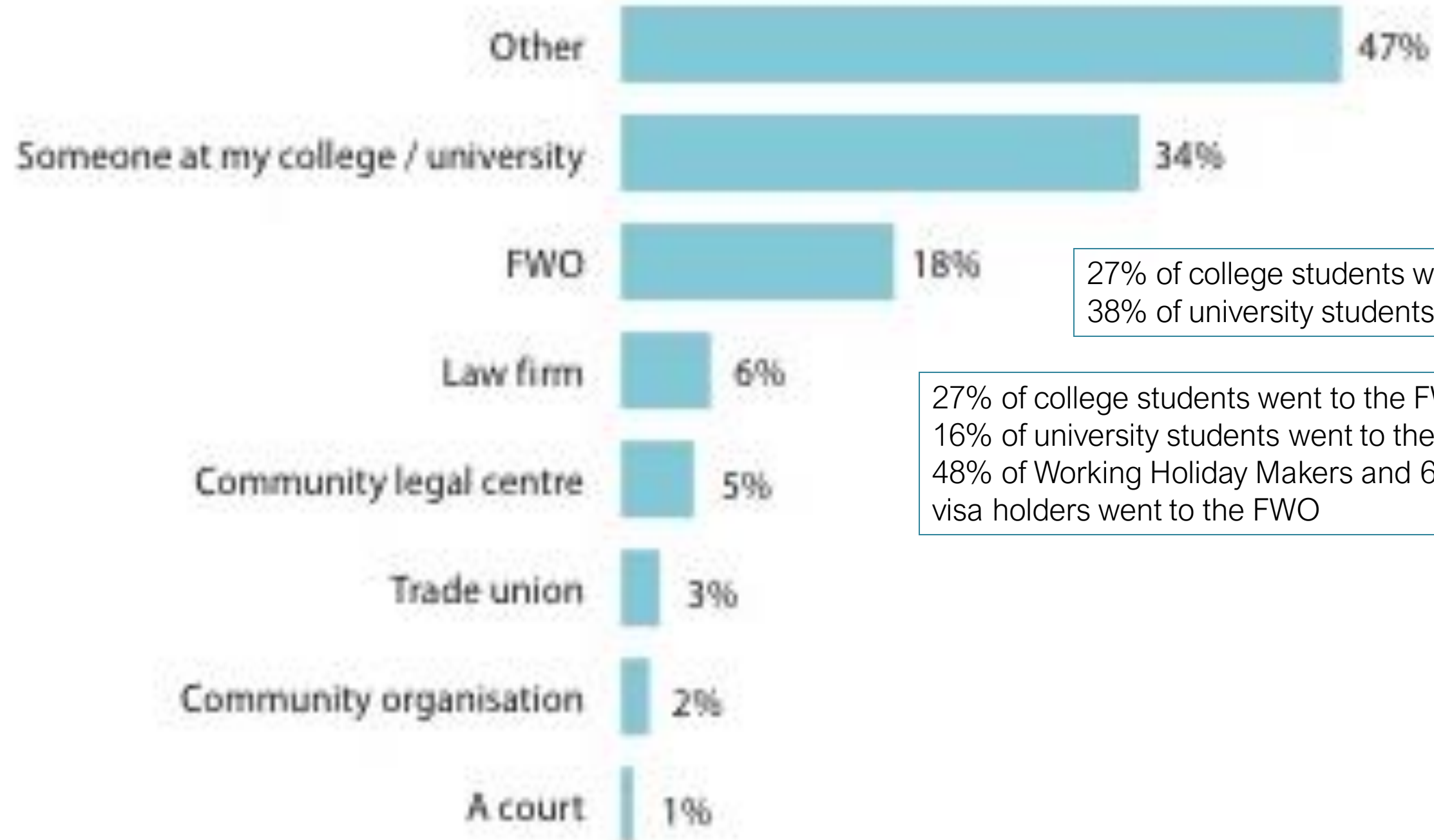
International students who tried to recover wages, by nationality

Country	Proportion of nationality who answered this question, who tried or were planning	Total count
China (incl HK)	8%	383
India	16%	89
Brazil	9%	79
Colombia	10%	97
Indonesia	12%	57
Vietnam	15%	62
Malaysia	4%	53
South Korea	2%	49
the Philippines	7%	29
United States of America (USA)	0%	14
Pakistan	28%	25
Nepal	19%	27
United Kingdom (UK)	8%	12
Spain	0%	20
Bangladesh	25%	12
Taiwan	5%	22
Japan	6%	17

All participants' openness to wage recovery, by method of finding lowest paid job



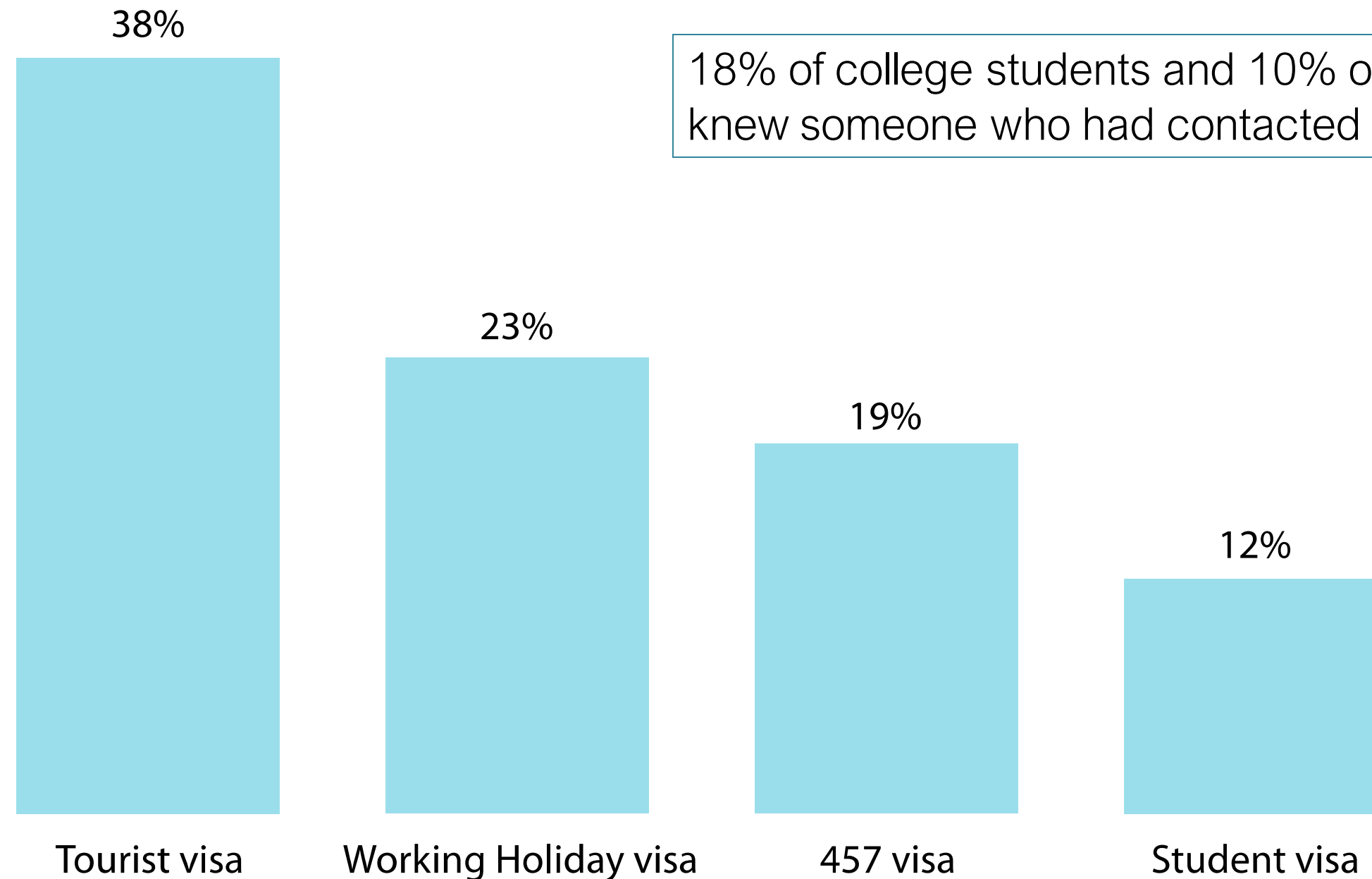
Who did international students contact for assistance to recover wages?



27% of college students went to their education provider
38% of university students went to their education provider

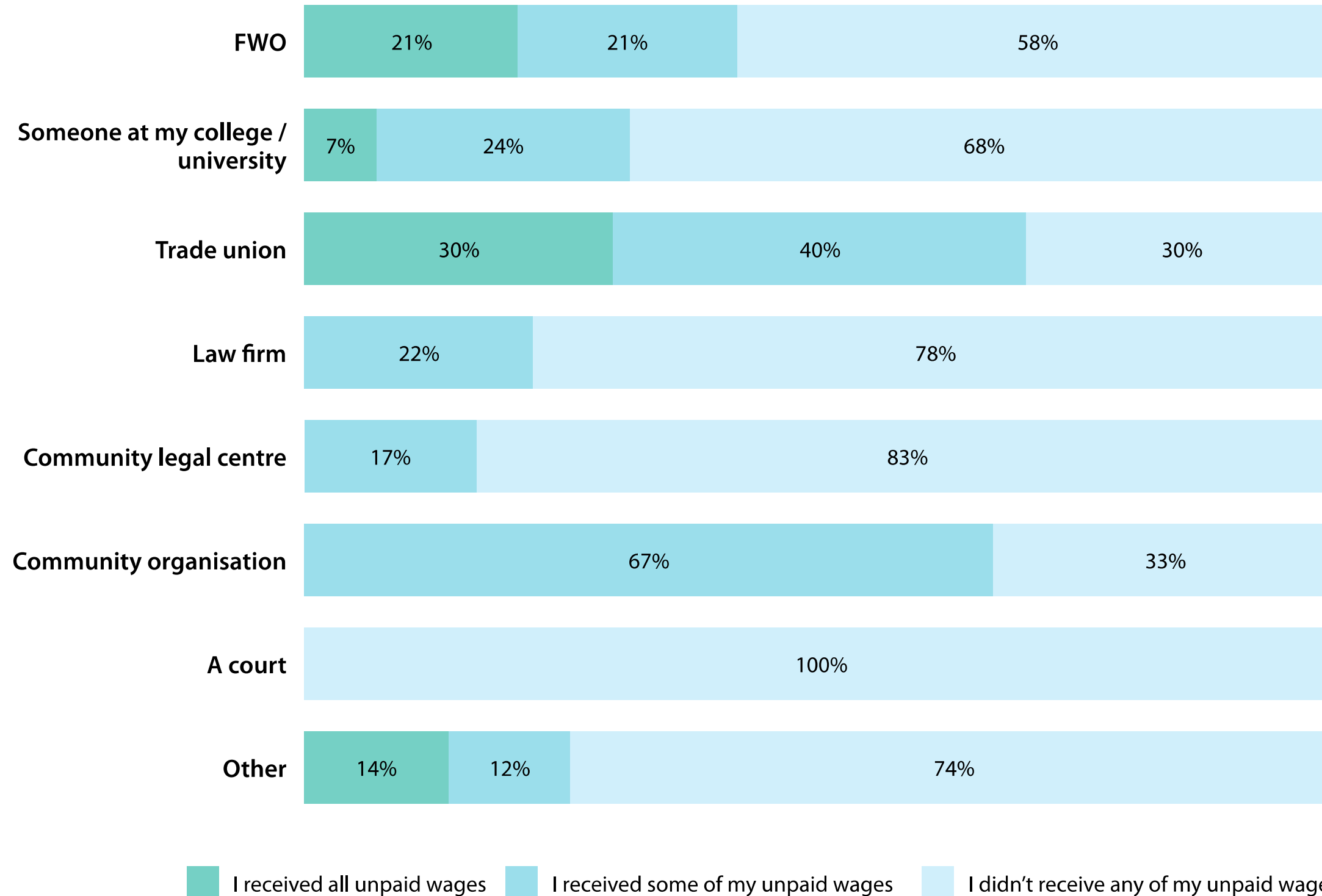
27% of college students went to the FWO
16% of university students went to the FWO
48% of Working Holiday Makers and 67% of 457-visa holders went to the FWO

Proportion of participants who knew someone who had contacted the FWO

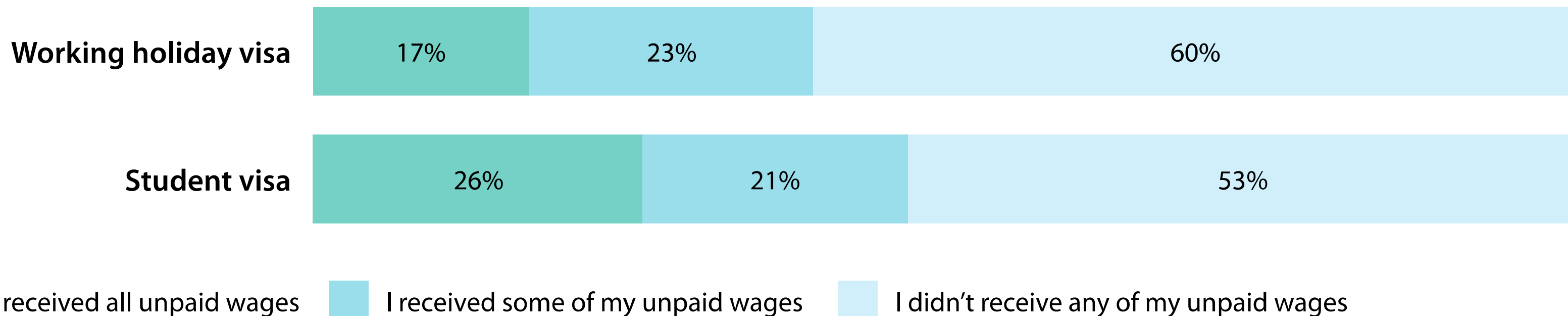


18% of college students and 10% of university students knew someone who had contacted the FWO

Worker outcomes by source of assistance

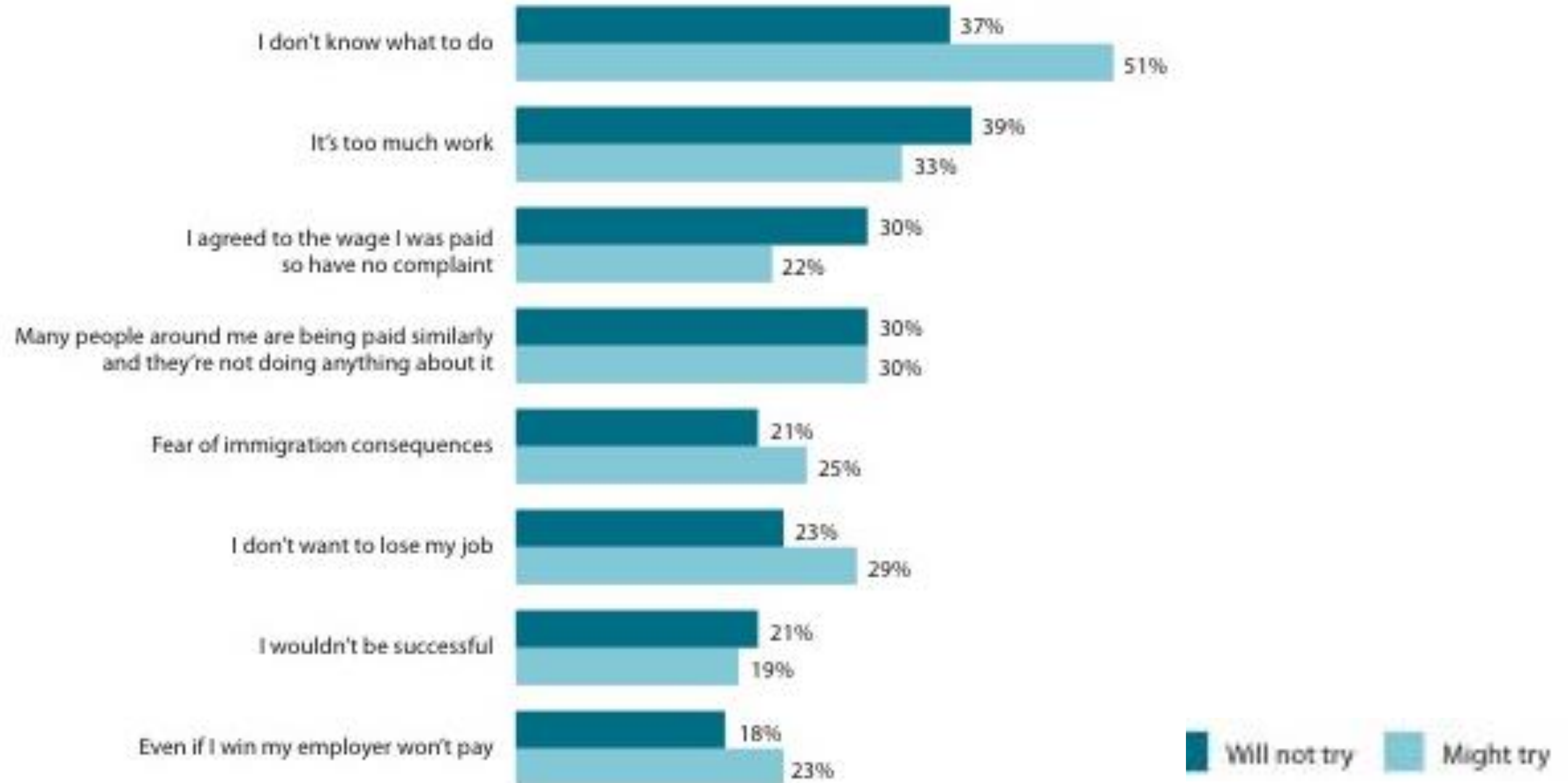


Outcomes for international students and WHMs at the Fair Work Ombudsman

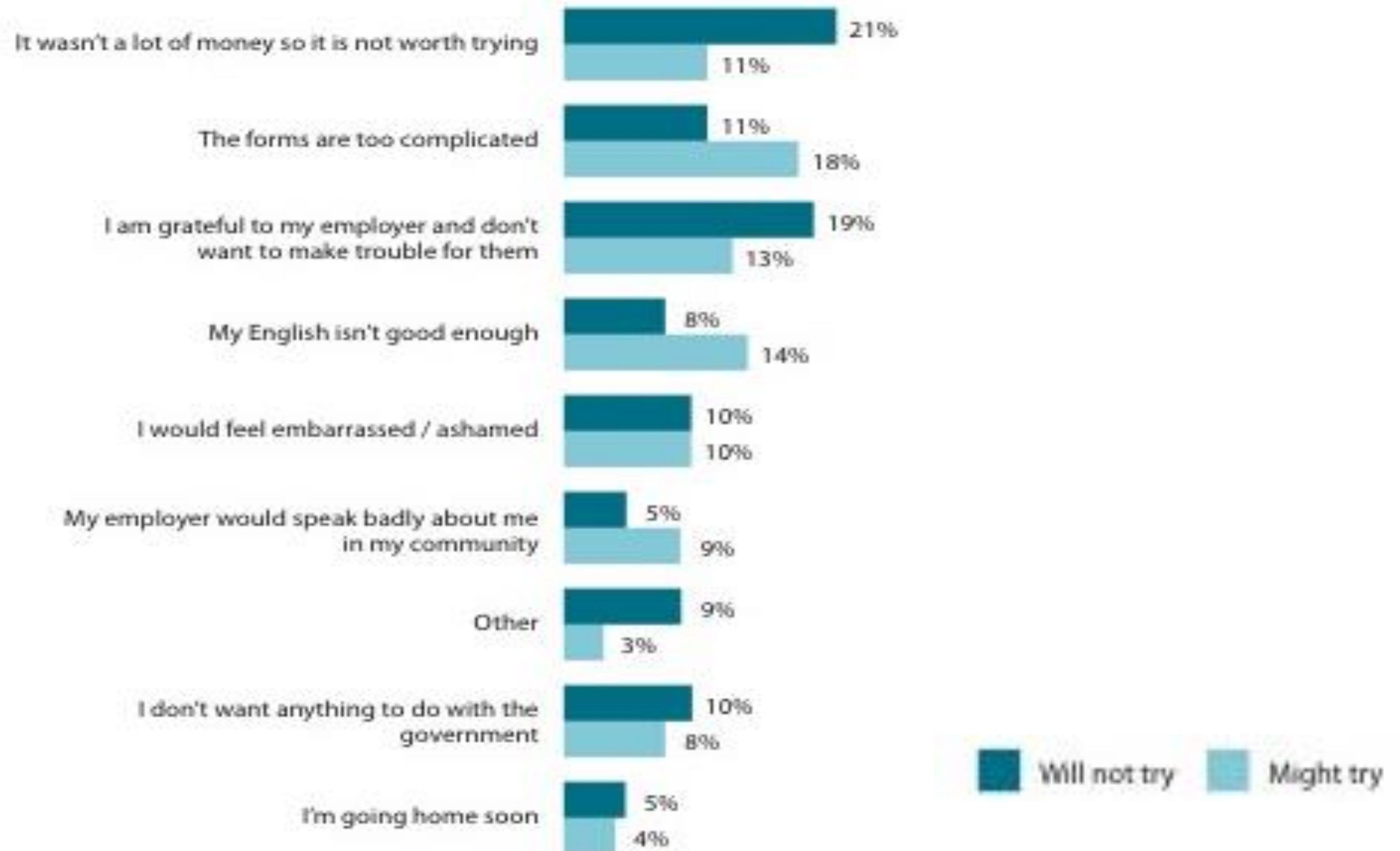


63% of college students and 46% of university students who contacted FWO recovered none of their unpaid wages
13% of college students and 36% of university students who contacted FWO recovered all of their unpaid wages

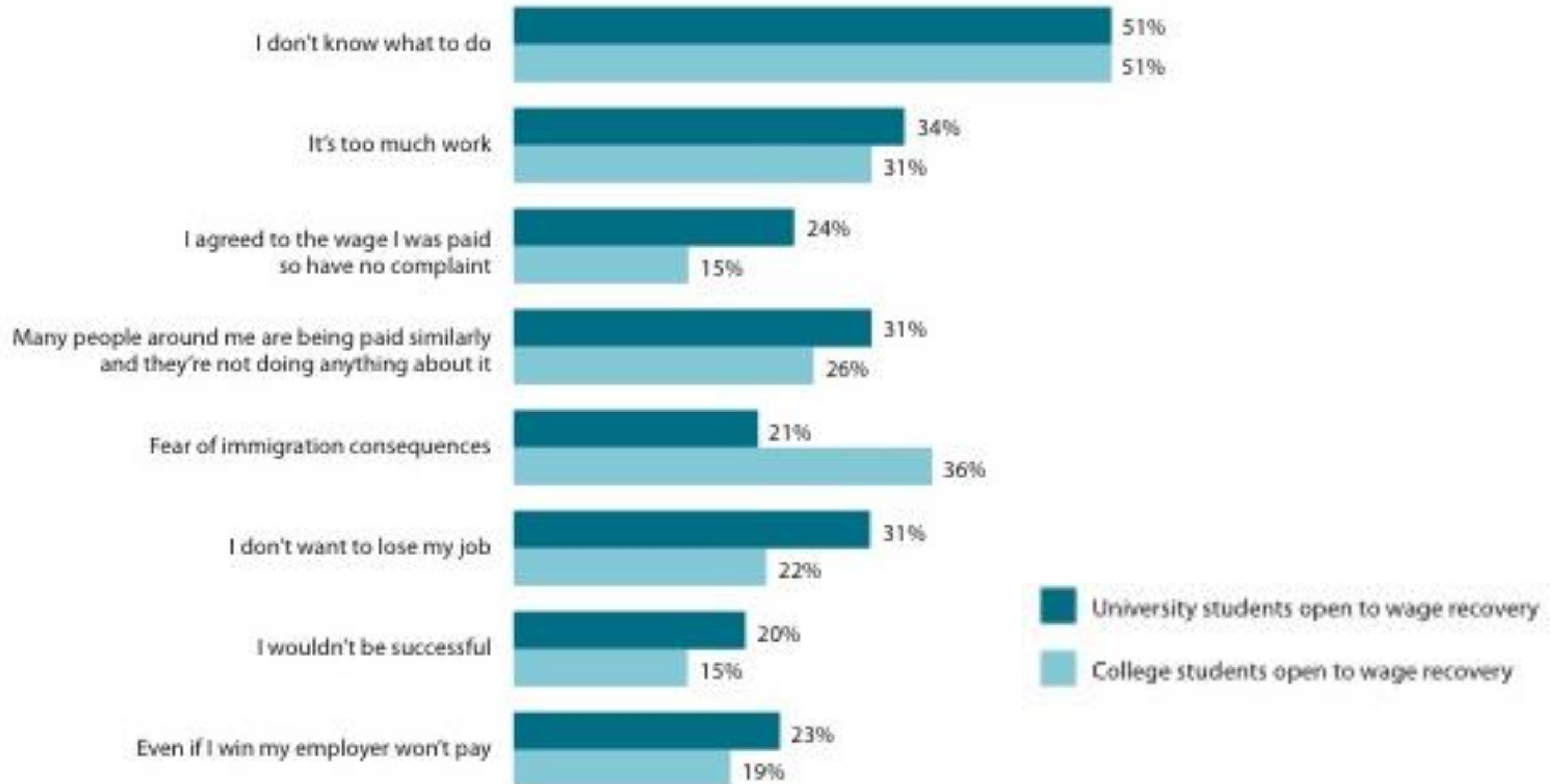
Barriers to wage recovery among international students



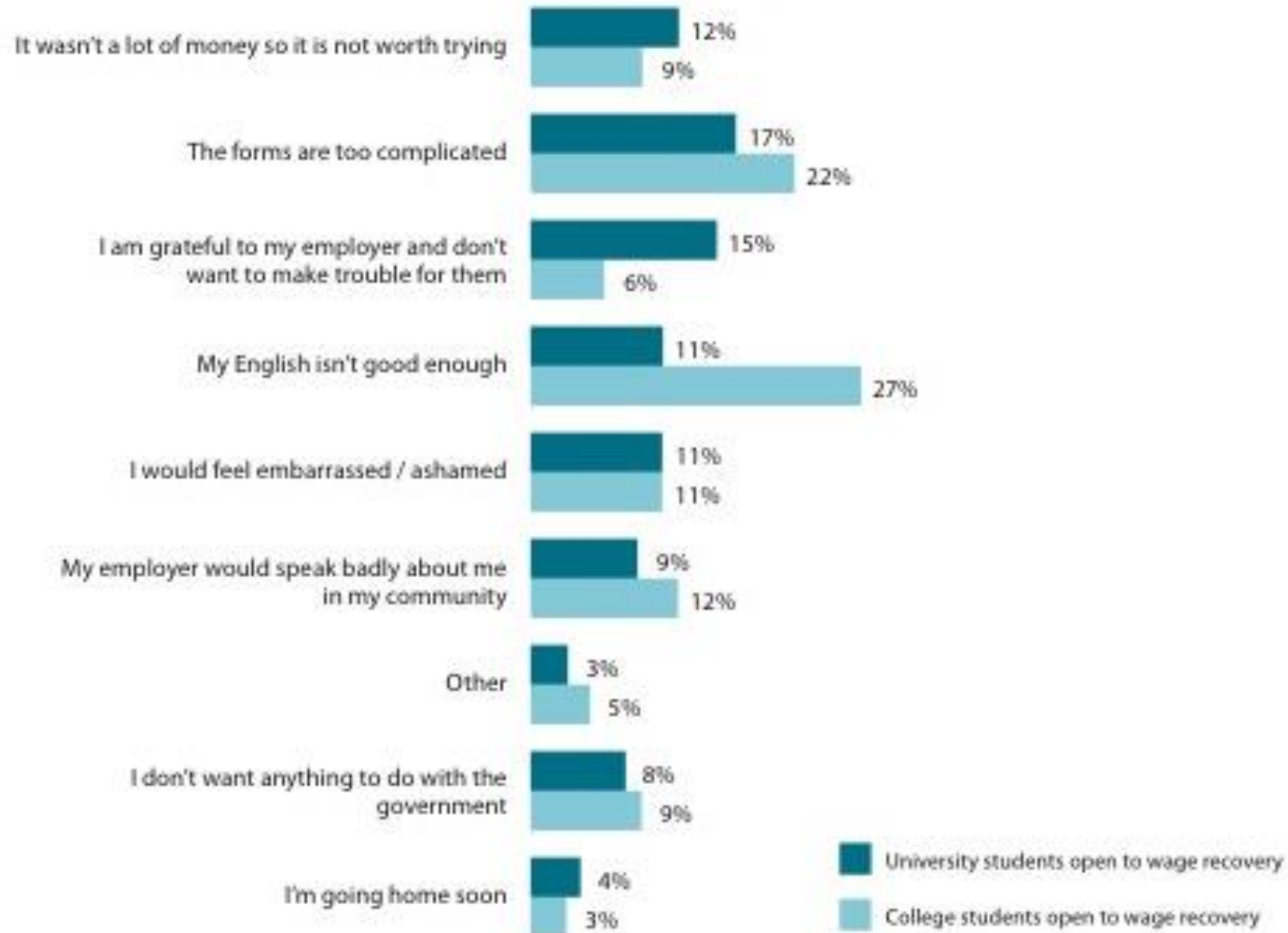
Barriers to wage recovery among international students



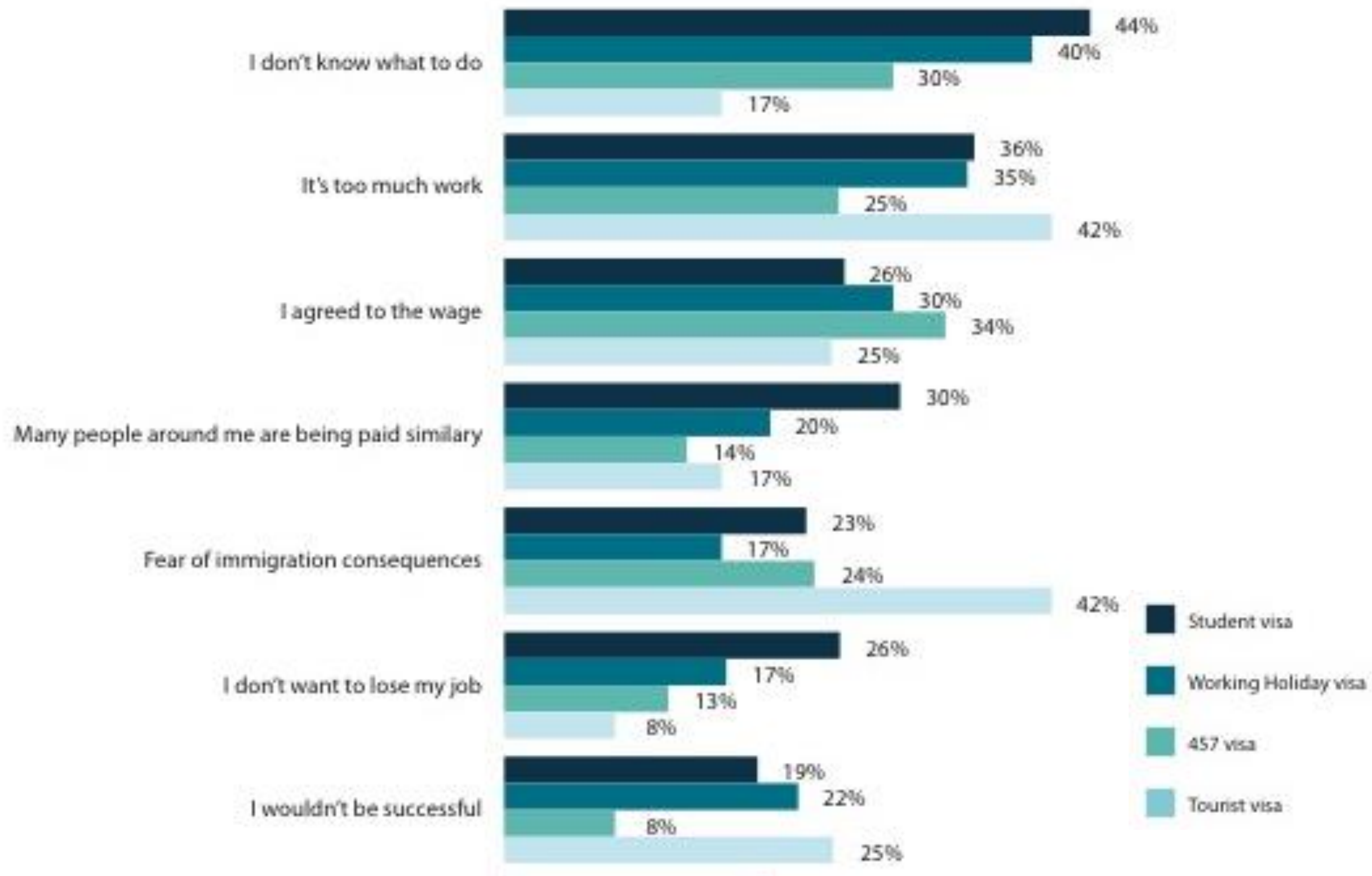
Barriers to wage recovery among international students who are open to trying (university and college students compared)



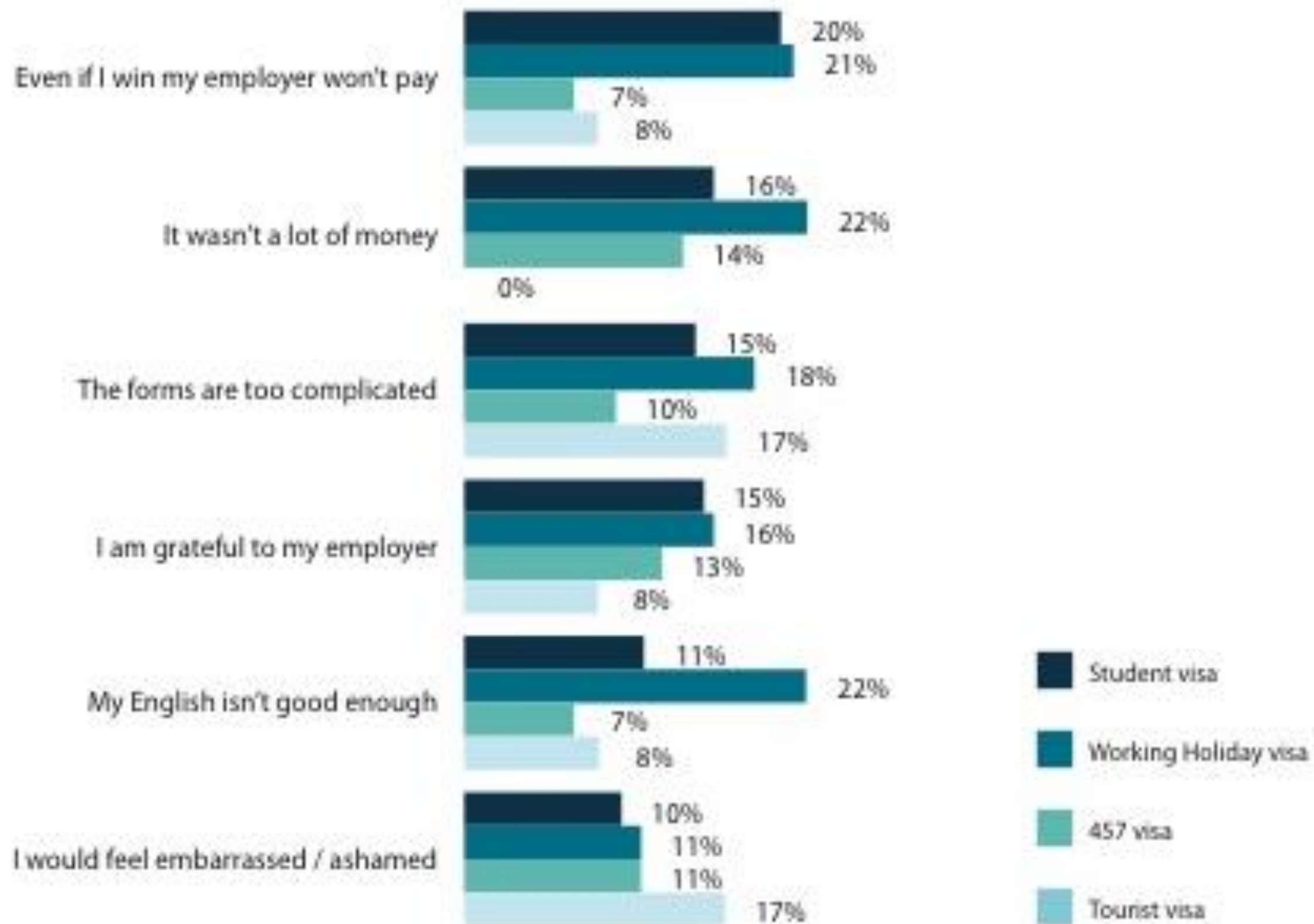
Barriers to wage recovery among international students who are open to trying (university and college students compared)



Barriers to wage recovery (by visa)



Barriers to wage recovery (by visa)



Conclusion and recommendations

- Most international students are open to seeking help to address underpayment but it is currently not possible or rational for them to do so.
- The most significant barriers to addressing wage theft can be addressed through practical measures or simple regulatory reform.
- If resources are invested in reducing these barriers, a substantially greater number of international students would likely seek help.
- International students are more likely to use services provided by their educational institution than to approach government institutions such as the FWO.

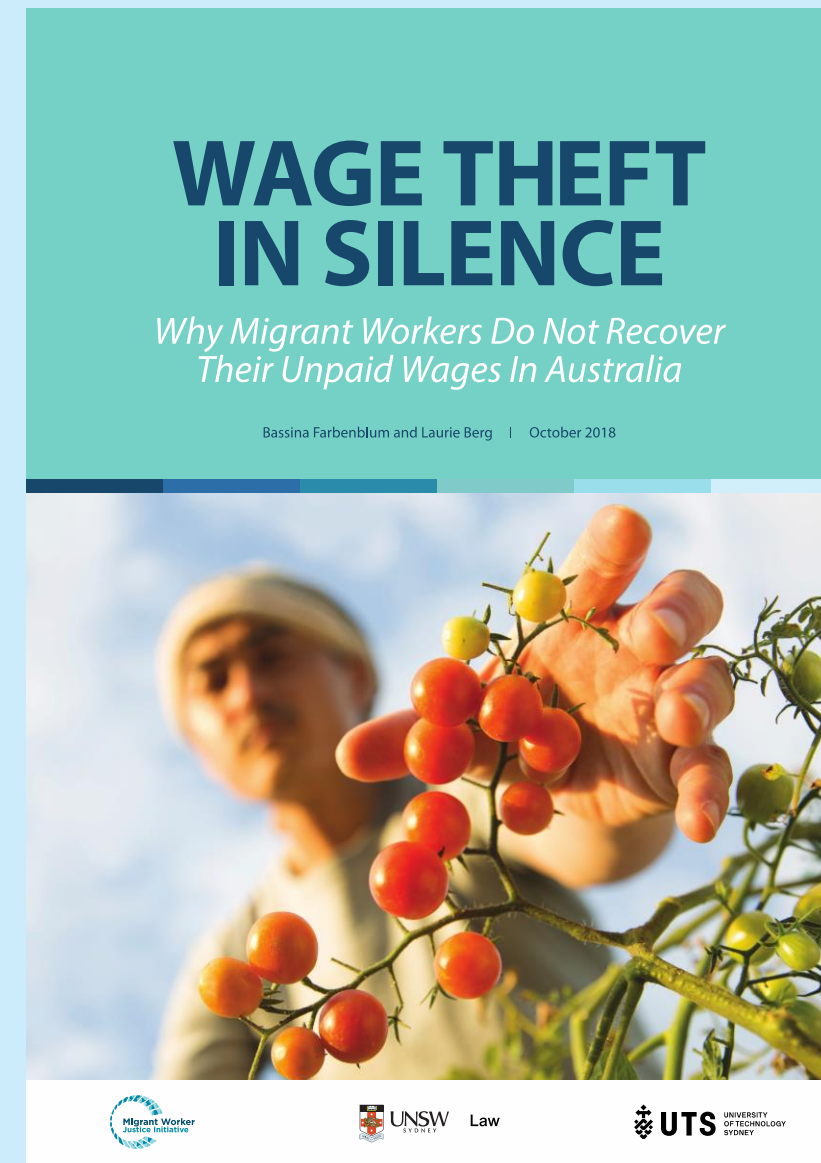
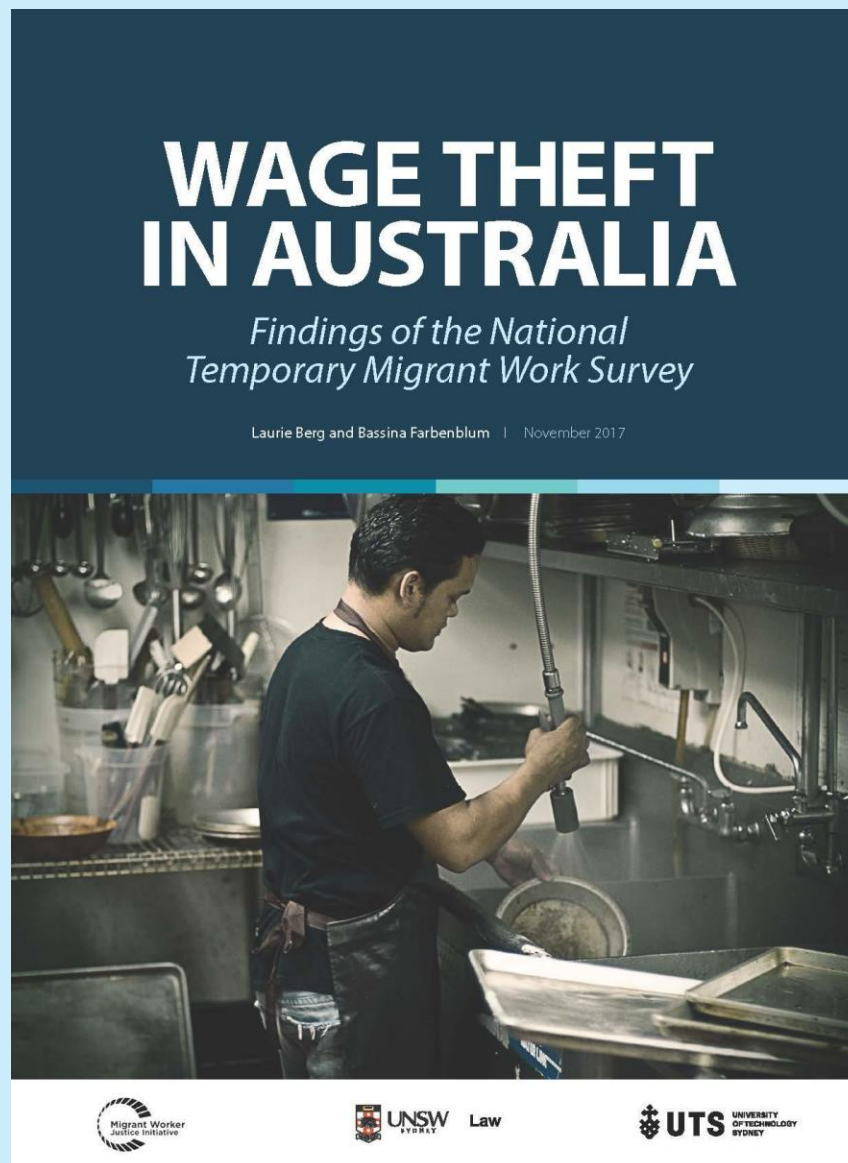
With government support, the international education sector should collaborate at state and federal levels to implement evidence-based measures to address wage theft among international students. In particular:

- Educational institutions should establish accessible in-house specialised services, or a centralised international student hub, that provide international students with legal advice and representation for employment (and housing) issues.
- The international education sector should provide tailored information that enables international students to report and address underpayment when it occurs.

Conclusion and recommendations

Recommendations for regulatory and institutional reforms:

- Establish a new forum for wage recovery that is an alternative to courts and the FWO.
- Establish a firewall between the FWO and Immigration (DHA) so international students can report wage theft without fear of jeopardising their visa.
- Improve state processes for migrant workers to report underpayment and recover unpaid wages including within the FWO and potentially through a new forum
 - Dedicated multilingual team to support migrant workers
 - Simplified swift procedures, including reducing evidentiary obstacles
 - Significant practical assistance and advice (not self help)
 - Expand FWO's powers to compel employer engagement
- Amend *Fair Entitlements Guarantee* to apply to migrant workers whose employer liquidates



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Migrant Worker Justice Initiative www.mwji.org