The role of discrimination and the exclusion Indigenous people from the labour market

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Abstract

There is a gulf between the widespread perception of discrimination against Indigenous Australians and that presented in scholarly writing. Empirical studies of Indigenous wages tend to emphasise the importance of education and other measurable factors in determining disadvantage. The problem with this position is that focusing on measurable factors involves an implicit bias against factors that are difficult to measure, such as discrimination and culture. Much of the empirical work on Indigenous labour market outcomes perpetuates the belief that education and other socioeconomic outcomes are more important than discrimination and history. In the rush to quantify Indigenous disadvantage, existing empirical studies may be implicitly biased against finding racial discrimination. By overemphasising the role of education and other endowments, empirical studies have created a public debate where practical reconciliation is given priority over a rights based agenda.

This paper, in addition to providing an overview of cases of labour market discrimination pursued by Indigenous Australians under the Racial Discrimination Act 1975, uses a recently developed statistical technique to explore the extent of potential discrimination against Indigenous workers looking for jobs. The findings confirm that discrimination appears to manifest itself in an inability to find jobs, rather than depressing the wages received.
Introduction

Discrimination is like the weather, many people talk about it, but nobody does anything about it. Labour market discrimination is notoriously difficult to identify, measure, and prosecute. It is not only that people tend to hide actions that are either not legal or not widely sanctioned in society, rather discrimination is sometimes indirect and unintentional resulting from seemingly neutral rules and regulations that exclude Indigenous people from participation in the labour market. Not only is it difficult to codify transgressions of discrimination, it is also difficult to measure empirically because there is no obvious variable to proxy for discriminatory behaviour.

Until relatively recently, economics has tended to discount the scope for discrimination in explaining employment disadvantage (Arrow 1998). Employers that persist in discriminating were said to be indulging a taste for discrimination; in any case, competition in the capital market should be effective in eliminating discrimination in the labour market because discriminatory employers would tend to go out of business. Statistical discrimination—where employers who believe that one group has a lower average productivity than other workers use membership of the group as ‘information’ in hiring workers—has the potential to be more persistent if labour market segregation reinforce the belief in racial differences or if the group is relatively small and hence employer’s beliefs are not challenged by the facts. Arrow (1998) postulates that social segregation may give rise to labour market segregation if local social networks are used for job referrals. In such circumstances, discrimination may not have costs for the employers, and may actually reward discrimination if social networks are sufficiently dense.

While economic theory has been slow to acknowledge the persistence of discrimination, empirical studies have always been more open to the possibility. Economic historians have shown that even though there appeared to be little difference in the wages blacks and whites, discrimination mainly took the form of the limited range of jobs in which blacks tended to be hired (Whatley & Wright 1994). More recently, an study by Bertrand and Mullainathan (2003) overcame data difficulties in discrimination studies by conducting an experiment by submitting 5,000 fictitious resumes to 1,300 job advertisements. After controlling for sex, resume quality and postal address, the authors found that employers were 50 per cent more likely to call back resumes with ‘White’ names than ‘Black’ names (selected from the most popular children’s names for the respective race). Bertrand and Mullainathan study provides direct evidence of the existence of substantial racial discrimination in the United States labour market.
Unfortunately, Australian researchers are confined to conventional methods which indirectly describe the scope for potential discrimination (see Blinder 1973; Ehrenberg & Smith 1997; Oaxaca 1973). In any case, it is unlikely that an Australian ethics committee would permit such research where no permission was sought from the people who appear to have engaged in racial discrimination (Oslington 2003). The approach adopted in this paper is use Nielsen’s (1998) decomposition technique to summarise the differences in the processes underlying employment outcomes of Indigenous and other Australians and indirectly infer the scope for discrimination.

Studies of the determinants of the labour force status of Indigenous Australians cannot ignore Indigenous-specific institutional factors such as the Community Development Employment Projects (CDEP) scheme. Under the CDEP scheme, Indigenous community organisations get an allocation of a similar magnitude to their collective unemployment benefit entitlement to undertake community defined ‘work’. The recipients are then required to work (mostly part-time) for their entitlements. Historically the CDEP scheme was available on a one-in-all-in basis for each community. The current policy, which evolved gradually during the 1990s, means that when the CDEP scheme is provided in a community, the unemployed have some choice as to whether or not they participate (Sanders 1993). While the employment status of CDEP scheme participants is ambiguous in many regards, the Australian Bureau of Statistics (ABS) treats CDEP scheme workers as employed for statistical purposes.3

Obviously, the effect of CDEP scheme employment on econometric analyses is a vital issue for any study based on ABS data. The failure to distinguish CDEP scheme employment from other employment may lead to misleading conclusions in research, and policies based on such research. Another issue when comparing the labour market outcomes of Indigenous and other Australians is that there is no analog for the non-Indigenous population. Hence any analysis that conflates the CDEP scheme jobs with other jobs may understate the returns to Indigenous education, and therefore lead to distortions in the decisions of governments or individuals. Hunter (2002) seeks to redress this situation by using information about the job characteristics and geographic distribution of CDEP scheme workers to infer the likely distortions in returns to education and other explanatory factors between 1981 and 1996.

Hunter (2002; 2003) demonstrates that CDEP scheme is prominent in both non-urban settings and, to a lesser extent, in other urban areas or ‘country towns’. If the presence of CDEP in substantial numbers distorts the factors underlying Indigenous employment, and we have strong theoretical reasons to expect it might, then we must estimate
discrimination separately for males and females living in the various geographic areas. This paper uses the ABS’s section of state classification and the Jones classification to maximise insights into the processes underlying labour market discrimination against Indigenous Australians.4

The basic structure of paper starts out with a brief description of the history of racial discrimination in Australia, before conducting an empirical analysis of labour market discrimination. The next section briefly introduces the long history of policy paternalism towards Indigenous Australians in labour market, followed by an equally short discussion of prosecution of labour market discrimination since the enactment of the *Racial Discrimination Act 1975*. The data and method to be used in analysing the extent of discrimination are then introduced. The empirical sections first charting Indigenous employment disadvantage between 1981 and 2001, before providing regression-based estimates of the scope for potential discrimination up till 1996. The conclusion reflects on the relationship between discrimination and social exclusion and explores the implications of both for policy makers.

**Labour market discrimination since 1975**

It has been an offence under Commonwealth law to discriminate against Indigenous people in the labour market since 1975. However, only a handful of employment cases since *Racial Discrimination Act 1975* introduced.

De Plevitz’s (2000) doctoral thesis examined all Australian cases involving labour market discrimination since 1975. She found that educated, middle class, white women were most likely to use the legislative injunctions against discrimination, with very few of the cases being precipitated by Indigenous complainants.5 Furthermore, judicial definitions in the *Racial Discrimination Act* focus on biology rather than culture. By excluding cultural considerations, the *Racial Discrimination Act* severely circumscribes the possibility for successful prosecution as most differences between Indigenous and other Australians arise from their respective social environments rather than physical characteristics. Moreover, since liability under the *Racial Discrimination Act* is determined by whether practice is reasonable, dubious behaviour is easier to rationalise by managerial prerogative, a widely recognised principle of employment law. De Plevitz also argued that since 90 per cent of complaints were settled out of court, there was limited public recognition of systemic discrimination. Indirect discrimination is unlikely to be rooted out unless it is fully exposed to public scrutiny.6 For example, the few remedies that were ordered tended to be based on compensation, often providing inadequate compensation, rather than address changes to recruitment policy that might reduce future
incidences of discrimination. The existing anti-discrimination provisions appear to have little effect on institutionalised racism in the workplace.

One prominent recent case of discrimination has been the ‘stolen wage case’ where the Beattie Government offered $55m to 16,400 victims if they waive rights to sue. That is, the Queensland government offered less than $4,000 per claimant for discriminatory behaviour involving the forced confinement of Indigenous Queenslanders on reserves, and a mandatory control over wages and savings through the management of bank passbooks. While these official constraints ceased in the early 1970s, Indigenous people still had to request to be free from financial management until the 1980s. See the Australians for Native Title and Reconciliation (ANTAR) web site, which provides an account of the extent of discrimination in this case using research by Dr Rosalind Kidd (see http://www.antar.org.au/).

The Queensland government’s offer of compensation does not relate to events after 1972. This does not necessarily mean that the enlightened government of the Queensland Premier, Joe Bjelke-Petersen, stopped all discriminatory behaviour immediately. Kidd estimates that 4,864 of victims involved discrimination that occurred after 1975 (and as late as 1985).

Obviously, the fact that there is only a handful of cases prosecuted under the Racial Discrimination Act does not mean that labour market discrimination against Indigenous Australians is an infrequent occurrence. The main reason for this apparent anomaly is that Indigenous people mistrust the law and legal processes. In order to utilise the legal processes, complainants must have the will, money and energy to pursue the gruelling track of litigation. Readers who are interested in the reasons why Indigenous people are not using the legislation passed to overcome racism are referred to De Plevitz (2000) who analyses the complex reasons in some detail. The remainder of this paper provides evidence on the extent of labour market discrimination against Indigenous Australians which points to racial discrimination in the workplace as a severely under-reported phenomenon.

**How is employment discrimination estimated?**

**Data**

The main analysis in this paper uses the full census counts from the last five censuses to identify the factors underlying employment prospects of Indigenous and non-Indigenous males and females. The ABS provided the data in a series of detailed, confidentialised cross-tabulations, which were used to construct a multivariate regression analysis of the determinants of employment. The grouped nature of
cohort data means that the dependent variables are the proportion of a group that is employed. Given that the dependent variables are bounded between the values of zero and one, the standard Ordinary Least Squares (OLS) estimation is also inappropriate. The solution adopted in this paper is to transform the dependent variables using a logitistic transformation, and then perform a weighted OLS analysis on the transformed data. Details of the estimation method are presented in Hunter (2002).

The regression analysis is conducted separately for each broad geographic classification, so as to maximise the insights into the role of the CDEP scheme. While the CDEP scheme moved progressively into urban Australia over the last 25 years, it is reasonable to assume that very few CDEP scheme jobs are in metropolitan areas. Indeed, recent ATSIC data show that there is only just over 1,000 CDEP participants in capital cities or any other urban area with more than 100,000 residents—this corresponds closely to the major urban area in the ABS’s section of state classification, which is used as the basis of the employment analysis between 1981 and 1996.

The validity of inter-censal comparisons of Indigenous labour market outcomes depend, in part, upon who identified as Indigenous in the 2001 Census, but did not in previous censuses. If the people who currently identify as Indigenous but did not do so in past censuses are radically different from those who have continuously identified, then we must question the validity of census-based comparisons of changes in the socioeconomic status of Indigenous Australians. However, Hunter (1998) has shown that the demographic characteristics of the Indigenous population (and cohorts) have not changed significantly over time and, therefore, it is possible to dismiss false claims about identification by non-Indigenous people as a major factor underlying the apparent large non-biological increases in the Indigenous population. The upshot of that analysis is that Indigenous people have become increasingly willing to identify themselves in census enumerations and inter-censal comparisons are valid.

The explanators of employment are similar to those used in other studies (Daly 1993; Miller 1989; Miller 1991). The variables used in the empirical analysis include: having a post-secondary qualification; age left secondary school; English difficulty; being divorced, widowed or separated; being married (including defacto); and, of course, age (measured in broad ten-year age groups). Detailed descriptions of the construction of these variables can be found in Hunter and Gray (1998), Gray, Hunter and Schwab (2000) and Hunter and Gray (2001).

One important determinant of employment, especially for females, is the presence of children in a family. Unfortunately, it was not possible to control for children because the process of confidentialising the data
would make analysis rather intractable. While data on children can be provided at a household or family level, it is not obvious how such data can easily be integrated into the cross-tabulations based on individual level data.

The analysis of the full census file at a sub-national level was facilitated by only using the broadest categories for the variables in the specification. This compromise was necessary, but reduced the possible insights from the following analysis. For example, the educational qualification variable is a crude measure that includes any post-secondary qualification. However, this may also be characterised as a strength in that the ‘qualification inflation’ of the late 1980s and early 1990s, sometimes associated with the Dawkins reforms, should not affect the results.

One reason why the 2001 census must be analysed separately from the other censuses, was that the census question on age left school was left out of the last census and replaced by a question on the highest level of schooling attained. Consequently, a different set of variables were used in the 2001 analysis and hence a direct comparison with previous results was not possible. However, the broad conclusions of the 2001 analysis is consistent with that for previous censuses (see Hunter 2003 for the 2001 results).

Another issue that may complicate the interpretation of the differences between Indigenous and non-Indigenous results is selective migration (i.e. the idea that particular types of people are more likely to move than others). For example, it has been observed that the overall patterns of net migration in remote areas correlate highly with employment trends (Bell & Maher 1995). Also, youth are more likely to change locations between censuses than older Australians. By contrast, Indigenous people reside in remote areas in spite of their employment status (Taylor 1997). That is, the Indigenous results will correspond to a similar population in all four censuses, while the non-Indigenous may be more responsive to labour market conditions. The use of broad categories of areas will minimise possible distortions because many moves will be within a category. While there may be an effect arising from selective migration, it would probably be too subtle to identify in the following analysis.

Empirical methods for measuring the scope of labour market discrimination

There is an extensive literature that aims to explain differences in income according to racial group and gender in terms of potential discrimination (see Blinder 1973; Ehrenberg & Smith 1997; Oaxaca 1973). Preston (2001) describes two main approaches to the measurement of wage discrimination: one involving the direct measurement of the extent of wage disadvantage that remains after
directly controlling for education and other observable characteristics (i.e., age, sex, location, marital status, occupation, industry); and the other is to decompose the wage gap between two groups assuming that the productive returns to the various characteristics are the same. Both of these techniques capture discrimination by the residual differences between groups after controlling for measurable factors. Appendix A provides some critical reflections on the limitations of the conventional approaches to measuring labour market discrimination.

Wage discrimination is relatively easy to measure because income can be easily modelled using standard techniques that require variables which can take on any values within a particular range (i.e., they are continuous). Unfortunately, employment is not a continuous variable as people are either employed or they are not, and hence it is not possible to directly apply such techniques in this study. However, Nielsen (1998) has suggested an analogous technique that can be applied when logistic regression analysis is used (N.B. similar techniques also used in earlier studies—e.g., Even & Macpherson 1993). The basic idea is that the probabilities are estimated for the Indigenous population using the measured effect of important factors for non-Indigenous population. The extent to which the average differential in employment is not explained by differences in characteristics of the respective population (i.e. residual differences) can be called potential discrimination. The description of these residual differences as discrimination is contestable because it probably conflates many factors, including the preference for particular types of work that may vary systematically between Indigenous and non-Indigenous people, and even groups of Indigenous people (Altman & Nieuwenhuysen 1979). Also, such techniques may be sensitive to measurement error in the explanatory variables (e.g. having completed school to Year 10 may mean different things in different locations). Notwithstanding these issues, Nielsen’s index provides a rough indication of the scope for explanations that involve labour market discrimination.

There are two major studies of discrimination against Indigenous Australians, both of which examine wage discrimination (Daly 1995: 47; Jones 1991). Both studies are based on a census analysis, which only includes indirect data on wages. Daly (1995: 47) estimates that ‘potential discrimination’ component as varying between 32.8 per cent and 17.9 per cent (respectively, for males and females employed full-time). Jones’s estimates of the proportion of the average wage differential that cannot be explained by the empirical model are slightly higher than those in Daly, but this can easily be accounted by the fact it is calculated on a different basis (e.g., he uses a different benchmark population). Daly goes on to claim that her evidence does not support the hypothesis that Indigenous full-time workers face a high level of discrimination in the earnings they receive. She speculates that this
may reflect the Australian system of wage determination, which has limited the extent to which the earnings of individuals can differ from award rates.

The use of Nielsen’s (1998) technique in this paper provides an opportunity to provide the analogous measure of the scope for discrimination in employment. The ‘non-discriminatory’ employment probability is estimated by calculating the expected employment rates if Indigenous males and females were treated the same way as non-Indigenous males and females in the labour market. Potential discrimination is estimated as the proportion of the average employment differential between Indigenous and non-Indigenous populations that is explained by the increase in Indigenous employment prospects arising from ‘non-discriminatory’ treatment. This calculation is conducted for Indigenous males and females living in various geographic areas using the regression analysis of total employment, private sector and full-time employment. Note that the non-discriminatory employment prospect can be also estimated for the non-Indigenous population using Indigenous regression coefficients in order to check the robustness of reported results. This was done and the broad observations are not changed by these sensitivity tests.

**Stability and change in the level of employment disadvantage of Indigenous Australians**

The timing of the changes in Indigenous employment coincides almost exactly with the growth of CDEP scheme jobs in the respective sections of state (Hunter 2002). Given that discrimination is measured relative to the employment disadvantage that Indigenous people experience vis-à-vis other Australians, Figures 1 and 2 chart the prevailing level of employment disadvantage for Indigenous males and females living in the various sections of state. As has been well documented elsewhere, there is a steady decline in non-Indigenous male employment in all three sections of state with other urban areas having the lowest employment ratios (Hunter 2002; Hunter 2003). While Indigenous males are significantly less likely to be employed in each census, Indigenous male employment is either steady or improves significantly in each inter-censal period. However, other urban areas again have the lowest employment ratios. Figure 1 demonstrates that the employment disadvantage of Indigenous males fell in all 3 sections of state. Note that the improvement in other urban and non-urban areas coincides with the expansion of the CDEP scheme, especially after 1986.
Figure 1. Employment disadvantage of Indigenous males, 1981–2001

It is also well documented how non-Indigenous female employment trended upwards in all three sections of state (Hunter 2002; Hunter 2003). While Indigenous female employment also trended upwards in a similar fashion. So in broad terms, Figure 2 demonstrates that the employment differential between Indigenous and other Australian females has remained broadly similar in the period being examined, and even declined slightly in non-urban areas. Once again, the CDEP scheme provides an obvious explanation for the reduction in the level of employment disadvantage outside Australia’s major urban areas.

**Recapitulation of census analysis of employment**

The conventional analysis of discrimination requires that detailed regression analysis of employment is conducted. Hunter (2002) conducted a multi-variate analysis of employment in the separate geographical areas to allow us to estimate the non-discriminatory probability of employment for all census years between 1981 and 1996. While there is no need to revisit all of that analysis, it is worth recapitulating on the main results in this section. The analysis is broadly consistent with the predictions of the theory and the studies reported above.
Hunter (2002) found that there is no systematic trend in the effect of having a post-secondary qualification in either major urban, other urban or rural/remote areas. Indeed, the effects of qualifications are remarkably stable for all groups as there is no significant change in employment prospects among either Indigenous or non-Indigenous males and females.

Hunter (2002) identified large increases in the employment disadvantage of people who left school before they were 16 years old is indicative of the general decline of jobs for low-skilled workers, especially in the manufacturing sector. The exceptionally poor prospects of this group are a relatively recent phenomenon among non-Indigenous Australians, but is well established in the Indigenous population.

In contrast, the expansion of the CDEP scheme in non-urban areas has cushioned low-skilled Indigenous workers from the harsh realities of declining regional labour markets. For example, the disadvantage of leaving school at age 14 was greater for Indigenous males and females in 1981 than for their non-Indigenous counterparts. By 1996, these relativities were reversed with non-Indigenous people who left school at or before 14 years of age experiencing greater disadvantage. Furthermore, the trends in CDEP appear to be correlated with changes in educational attainment and proficiency in English (especially in rural/remote).

The remainder of this paper summarises how the effects of the factors underlying employment differ for Indigenous and other Australians. That is, as with most empirical studies of discrimination, it describes the extent for potential labour market discrimination against Indigenous males and females.

**The scope for labour market discrimination in employment, 1986–1996**

This section describes the scope labour market discrimination by estimating Neilsen’s method using Hunter’s (2002) results for all censuses between 1981 and 1996. Figures 3 and 4 charts the level of discrimination between Indigenous males and females, and their non-Indigenous counterparts. Figure 5 provides an estimate of the discrimination between non-Indigenous females and non-Indigenous males to provide a benchmark for the estimates of racial discrimination.

The scope for racial discrimination in employment is large as it potentially explains more than half of the employment disadvantage experienced by Indigenous Australians. On the face of it, Figures 3 and 4 also provide a good news story with potential discrimination measures falling by more than 10 percentage points in all areas. The results
appear to be robust to the incidence of CDEP, although the large decline in non-urban areas is possibly evidence of a CDEP effect. Note that other urban areas (i.e. country towns) appear to have a higher level of employment discrimination than in major cities and non-urban areas.

One of the main reasons for the decline in measured discrimination is the general collapse in the demands for unskilled workers. Now uneducated non-Indigenous males and females have as poor employment prospects as the analogous Indigenous people have (and apparently have always had). The flip side of this discrimination estimates is that educational endowments now can explain more of the average differential. The reason for this is that although there have been some minor improvements in the educational attainment of Indigenous people in absolute terms, they have fallen further behind relative to other Australians (Gray, Hunter & Schwab 2000). Hunter and Schwab (2003) show that the proportion of Indigenous youth attending university or equivalent actually fell in the last inter-censal period.

**Figure 3. Potential employment discrimination against Indigenous males (relative to non-Indigenous males)**

![Figure 3](image)

Source: Appendix Table A1

Figure 4 estimates the level of potential discrimination against Indigenous females (relative to other Australian females). Note that there were similar declines in measured discrimination against Indigenous females in Figures 3 and 4, probably for similar reasons. That is, relative education status fell and hence endowments now form a more powerful explanation of the employment differential between Indigenous
and non-Indigenous females. The collapse in the employment for low-skilled workers has also disproportionately affected non-Indigenous females.

Note that the ‘country town effect’ evident in Figure 3 is less marked for females. Notwithstanding the effect of the CDEP scheme, which appears to be clearly evident between 1986 and 1991, one should expect the level of discrimination to be lower in remote and other non-urban areas, where the Indigenous population are a majority, or a substantial majority. That is, it is harder to discriminate against people that you are reliant on and need for you day-to-day existence.

**Figure 4. Potential employment discrimination against Indigenous females (relative to non-Indigenous females)**

Source: Appendix Table A1
While the patterns in potential discrimination against non-Indigenous females, relative to non-Indigenous males, are similar as those above, the levels are lower than they are for Indigenous females. However, there are different reasons for the results. The average educational attainment of non-Indigenous females improved vis-à-vis non-Indigenous males. The falling gross employment disadvantage of non-Indigenous females (relative to non-Indigenous males) was driving the decline in discrimination. That is, the trends in the rates of return to non-Indigenous males and females were similar in the period examined.

In contrast to wage discrimination estimates, employment discrimination against Indigenous people is actually more important than for gender discrimination. Therefore, it can be argued that the employment experience of non-Indigenous females is closer to that of non-Indigenous males than Indigenous experience is relative to the respective non-Indigenous counterparts.

**Discrimination and social exclusion**

Taken together, the results highlight that the statistical processes that determine Indigenous and non-Indigenous employment are very different. Furthermore, there are important differences between males and females living in metropolitan, provincial and remote areas.
The analysis of potential discrimination illustrates that over two-thirds of the average difference between Indigenous and non-Indigenous employment cannot be explained by the differences in regression coefficients. While this estimate can in some sense be interpreted as potential discrimination, it also illustrates conclusively that the processes that determine Indigenous and non-Indigenous employment are not the same, even after important local labour market conditions are taken into account. Therefore Daly’s (1995) approach, which models the Indigenous labour force status using a shift parameter and a series of interactive terms, does not capture the complex reality of Indigenous labour market experience.

Such findings also have implications for the efficacy of identifying discrimination in legal and quasi-legal settings (e.g. the Human Rights and Equal Opportunity Commission). Notwithstanding the methodological limitations identified above, Nielsen’s technique probably provides an upper bound of the extent of potential discrimination. Given that there is substantial scope for discrimination against Indigenous Australians, it is notable that only a handful of racial discrimination cases involving employment have been heard since passing of the Racial Discrimination Act by the Commonwealth in 1975 (De Plevitz 2000). The major impediments to prosecuting systemic racial discrimination appear to be the narrow interpretation of ‘race’, and the legal difficulties encountered in proving indirect discrimination. If discrimination is anywhere near as important as indicated by this paper, then the legal problems that arise when prosecuting racial discrimination need to be addressed as a matter of urgency.

De Plevitz (2000) recommends a new Federal Act should be away from the narrow focus of avoiding discrimination towards a more effective and positive approach to Indigenous unemployment. On the affirmative action side, she suggests stringent monitoring of all public and private employers of over 50 workers with the aim that on proportional representation there should be at least one Indigenous person in the workplace. As reward there could be tax concessions for those employers who train and retain Indigenous workers. As a last resort she recommends there could be criminal penalties and economic sanctions such as the loss of grants and contracts. State, Federal and Territory governments could take the lead by consulting with employers and coming up with voluntary quotas and codes of practice for industry. Another possible strategy canvassed is contract compliance where bodies that wish to enter a contract with a government must provide evidence of the employment of qualified members of minority groups. Sanctions include the termination of contract for non-compliance. While this paper emphasised the role of discrimination, in some sense diminishing the role for education, there should be no doubt about the importance of education in dealing with Indigenous economic
disadvantage. If nothing else, the lack of education is a crucial impediment in the ability of Indigenous people to access and use any anti-discrimination regime.

Also unless Indigenous workers have the basic educational attainment (of sufficiently high quality) required to compete in the labour market, the emphasis of the Indigenous Employment Policy on the importance of transitions out of the CDEP scheme into mainstream employment is unlikely to succeed. The irony is that the very success of the CDEP scheme, and its longevity, may defeat this policy objective. The challenge for policy makers is to ensure that the incentives for Indigenous youth to complete school are enhanced without compromising community services provided by the scheme or diminishing employment opportunities provided by CDEP in these depressed labour markets. The importance of maintaining the correct incentive structure for youth is particularly apparent in other urban areas where the mainstream employment opportunities are better.

Interested readers are referred to Schwab (2001) who provides an overview of the diverse range of strategies required to keep Indigenous youths engaged in the later secondary school system. In addition to involving local CDEP schemes, any initiative should involve Indigenous community groups as well as the Department of Education, Science and Training, Centrelink, and Family and Community Services.

Another avenue for increasing the economic independence of Indigenous Australians, self-employment. Starting your own business or working for yourself are two effective means of circumventing discrimination apparently faced by many Indigenous people attempting to secure employment in the Australian labour market. However, while self-employment can provide independence to some Indigenous people, it is not a panacea because business opportunities are often limited, especially in remote areas, and poor education and access to finance can be a formidable constraint on setting up a successful business.

Importance of symbolic reconciliation should not be under-estimated, especially since practical reconciliation appears to be not ‘delivering the goods’ (Altman & Hunter 2003; Hunter & Schwab 2003). Jonas has pointed out that the emphasis on practical reconciliation has been used to remove the rights discourse from matters involved with Indigenous disadvantage:

In brief the problem with this approach is the simplistic, arbitrary and extremely artificial division it creates between measures which are described as practical as opposed to symbolic (Aboriginal and Torres Strait Islander Social Justice Commissioner 2001: 23).

The importance of the inter-related dimensions of cultural, social and economic domains is the subject of much research (Borland & Hunter
2000; Folds 2001; Hunter 1999; Hunter 2000). For example, social alienation feeds into substance abuse, which leads to crime, which affects education and hence employment. One weakness of the approach of practical reconciliation is that it tends to implicitly discount subtle interactions between the various dimensions of Indigenous disadvantage—sometimes termed the social exclusion of Indigenous people.

Labour market discrimination is an extreme or acute form of social exclusion, founded on historical factors especially policy paternalism and other legacies from colonisation. Indeed, it is arguable about the extent to which this paternalism is still with us. Resulting alienation and lack of desire to participate in mainstream society is problematic (e.g. community breakdown). Consequently, there is a possible role for social capital, especially the development of learning communities proposed by Schwab and Sutherland (2001). While education plays a complex role in the discrimination story, there is no denying that education special place in reducing social exclusion and building capacities to help Indigenous people participate in mainstream Australian life.
**Appendix Table A1. Changes in employment discrimination between 1981 and 1996**

<table>
<thead>
<tr>
<th>Probability of employment</th>
<th>Indigenous</th>
<th>Non-discriminatory</th>
<th>Non-Indigenous</th>
<th>Per cent attributable to Discrimination</th>
<th>Per cent attributable to Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Males</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Major urban areas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1981</td>
<td>0.517</td>
<td>0.704</td>
<td>0.740</td>
<td>84.1</td>
<td>15.9</td>
</tr>
<tr>
<td>1986</td>
<td>0.527</td>
<td>0.678</td>
<td>0.714</td>
<td>80.8</td>
<td>19.2</td>
</tr>
<tr>
<td>1991</td>
<td>0.499</td>
<td>0.636</td>
<td>0.681</td>
<td>75.6</td>
<td>24.4</td>
</tr>
<tr>
<td>1996</td>
<td>0.521</td>
<td>0.637</td>
<td>0.679</td>
<td>73.8</td>
<td>26.2</td>
</tr>
<tr>
<td>Other urban areas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1981</td>
<td>0.462</td>
<td>0.698</td>
<td>0.721</td>
<td>90.9</td>
<td>9.1</td>
</tr>
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<td>1986</td>
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<td>0.692</td>
<td>84.3</td>
<td>15.7</td>
</tr>
<tr>
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<td>0.661</td>
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</tr>
<tr>
<td>1996</td>
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<td>0.612</td>
<td>0.651</td>
<td>78.1</td>
<td>21.9</td>
</tr>
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<td>Non-urban areas</td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1981</td>
<td>0.480</td>
<td>0.684</td>
<td>0.762</td>
<td>72.2</td>
<td>27.8</td>
</tr>
<tr>
<td>1986</td>
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Appendix Table A2. Changes in employment discrimination against non-Indigenous female between 1981 and 1996

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Notes

1. Cousins and Nieuwenhuysen (1984) found it difficult to confirm or refute suggestions that there is discrimination against Aboriginal employment because of the absence of documentary evidence. However, discrimination is implicit in accommodation provision; at least company officials seemed to fear the consequences of offering substantial numbers of Aboriginals accommodation in mining towns (Cousins & Nieuwenhuysen 1984: 9–10). Another indirect form of discrimination may be the disinclination of companies to adopt policies that accommodate Aboriginal distinctiveness. For example, at Mount Isa and Port Hedland there seemed to be this disinclination, probably emanating from ‘grass-root’ non-Aboriginal influence. (Cousins & Nieuwenhuysen 1984: 10).

2. Schelling (1978) provided a model of how segregation can arise from small differences in preferences and persist for prolonged periods. While his model was aimed at the housing market it is easy to adapt it to explain the tendency to segregated labour markets.

3. Where CDEP scheme workers are specifically identified in a survey.

4. The section of state classification provides only broad insights into the role of geography compared to other more recent systems of classifications such as the ABS remoteness categories or the classification devised by Roger Jones (2003). The advantage of a section of state breakdown is that it is comparable right back to 1981 and allows us to document
longer run trends in Indigenous labour force status. However, studies of recent censuses could use Jones classification which provides a better proxy for history of settlement and hence may be more closely related to Indigenous experience than the old ABS section of state classification.

5. Also see Hunter and Leonard (1995).

6. Elements of indirect discrimination occur when conditions imposed by the respondent with which the complainant cannot comply. Difficulties in proving indirect discrimination arise where the condition is a cluster of interconnected requirements. For example, ‘merit’, which may comprise education, experience in the field, and the ability to ‘fit into’ the workplace. Even if one discounts the historical difficulties of Indigenous participation in the education system, subjective requirements such as the ability to fit in may work against Indigenous job applicants. Note that there were only five complaint from indigenous people involving indirect discrimination, none of them in the area of employment (De Plevitz 2000).

References


Daly, A.E. 1995. Aboriginal and Torres Strait Islander People in the Australian Labour Market, Cat. no. 6253.0, ABS, Canberra.

De Plevitz, R.L. 2000. The failure of Australian legislation on indirect discrimination to detect the systemic racism which prevents Aboriginal people from fully participating in the workforce, unpublished Phd thesis, Centre for Public and Comparative Law Faculty of Law, Queensland University of Technology, Brisbane.


