
WORKPLACE AGREEMENTS

AND INDIGENOUS-FRIENDLY WORKPLACES

by Boyd Hunter and Matthew Gray

ABSTRACT

The rate of employment of Indigenous Australians is much lower than that for other Australians. One of the reasons for this is that Indigenous employees have a higher rate of job turnover than other employees. Flexible work arrangements such as cultural or ceremonial leave and Indigenous-specific provisions can assist Indigenous employees remain employed when they face competing demands from the workplace as well as their family, community and cultural obligations. The availability of such work arrangements may also make it more attractive for some groups of Indigenous people to take up paid employment. This paper uses data on federal workplace agreements to analyse the extent to which agreements contain provisions that are likely to create more Indigenous-friendly workplaces and how this has changed since the mid-1990s. There has been a marked increase since 1997 in provisions in agreements for the recruitment, promotion and other conditions of employment for Indigenous Australians (including cultural or ceremonial leave). This in itself is a positive development, but these Indigenous-friendly provisions are still concentrated in particular workplaces, presumably where there is a sound business case for the organisation introducing these provisions. If the gap in employment outcomes between Indigenous and other Australians is to be further closed, Indigenous-friendly workplaces will need to become commonplace. The policy challenge is to encourage all businesses, especially small-to-medium size businesses, to embrace more inclusive workplace conditions.

INTRODUCTION

The employment rate of Indigenous Australians has increased substantially since the mid-1990s, although it remains much lower than that of other Australians.¹ In 2011, the employment rate for Indigenous men was 22 per cent lower than for other Australian men and for Indigenous women it was 26 per cent lower than for other Australian women.² The much lower employment rates amongst the Indigenous population is explained in part by a range of factors that make it more difficult for the Indigenous population to find employment and in

part by Indigenous employees being more likely to leave paid employment, than is the case for other employees.³

While there is considerable research on the factors driving the prospects of Indigenous Australians finding paid employment, much less is known about how Indigenous workers retain jobs and what drives the relatively high turnover of Indigenous employees in workplaces.⁴ One potential reason for the higher turnover of Indigenous employees is that there may be, on average, a poorer match between Indigenous employees and their employer than is the case for other employees. Another potential reason is that difficulties in balancing work with family, community and cultural responsibilities may mean that Indigenous employees are more likely to leave a job. Indigenous employees are more likely to be casual employees and seasonal workers than other employees and this may contribute to them having higher rates of turnover.⁵ There is also evidence that some Indigenous people can find some workplaces uncomfortable because of a lack of understanding of issues faced by Indigenous people, or they may in fact experience discrimination.⁶ The best available estimate is that just over one in four Indigenous people report having experienced some form of discrimination in the previous 12 months.⁷

Policies that are effective in increasing job retention would be an important contributor to increasing Indigenous employment rates. Many employers recognise this and a number of companies (eg Rio Tinto, BHP, Westpac, National Australia Bank) have emphasised the importance of job retention and recruitment policies that are consistent with the aspirations and needs of the Indigenous population.

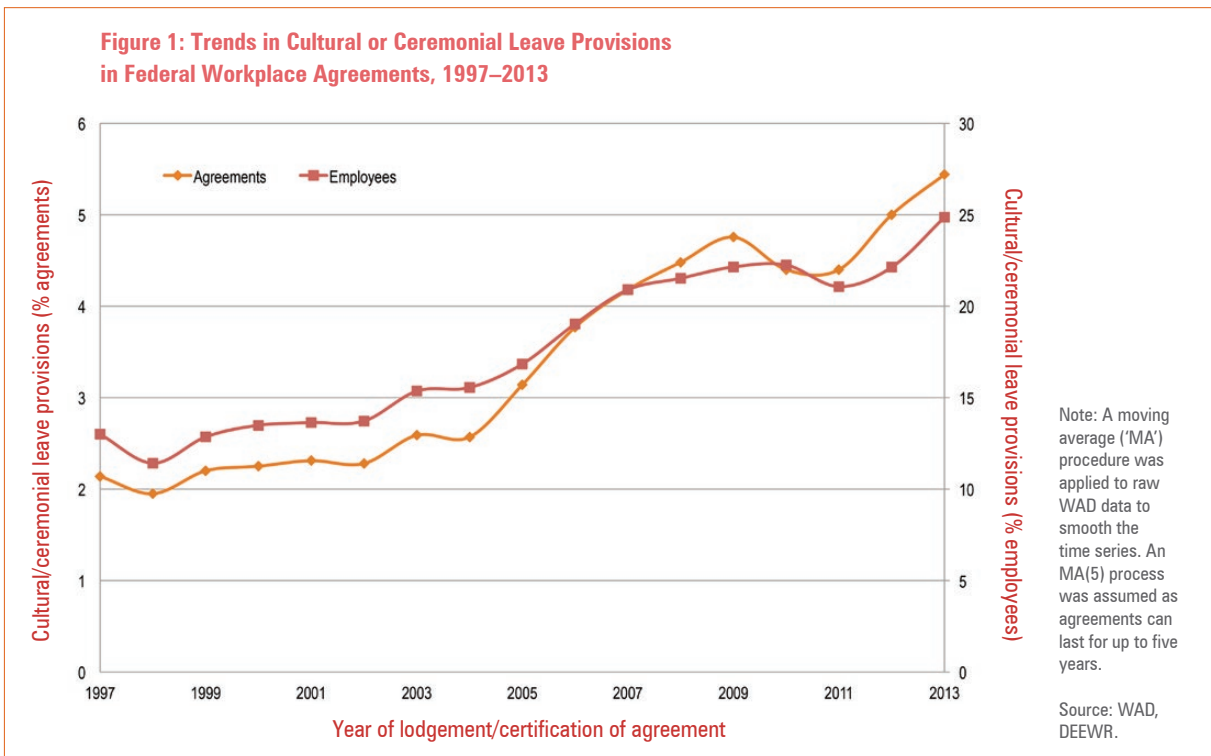
Whether or not employers offer flexible work arrangements that are targeted at particular groups of employees (eg, flexible work arrangements for employees with caring responsibilities) will depend upon a range of factors. One of these factors is the business case for offering work arrangements. Where a strong business case can be established, an employer will be more likely to offer work

arrangements of benefit to specific groups of employees.⁸ There are some specific reasons as to why there may be a business case for employers attempting to attract and retain Indigenous employees. Mining companies may need a social licence to mine on or near Indigenous community lands and hence will be predisposed to looking after the interests of Indigenous workers and the local community.⁹ Another example of a business case is where the local workforce is predominantly Indigenous or the legitimacy of the enterprise depends on hiring sufficient numbers of Indigenous workers. Aboriginal organisations or organisations that advocate Indigenous issues need to employ sufficient numbers of Indigenous workers so that they can conduct their core business. In the case of Aboriginal organisations there is a strong rationale for providing an Indigenous-friendly working environment—these workplaces are likely to be run by Indigenous people for Indigenous people.

While the business case is crucial from the employer perspective, equity and wellbeing considerations are also important. All Australians should have equal access to employment opportunities. Workplaces that do not take into account the job search behaviour of Indigenous people or the needs of Indigenous workers will constrain the ability to achieve the policy goal of closing the gap between Indigenous and other Australians. Employment is a key determinant of economic and social participation and wellbeing, and thus having Indigenous-friendly workplaces is an important pre-condition for reducing the current inequalities.

While much of what influences the extent to which a workplace will be Indigenous-friendly are the informal work practices and beliefs and attitudes of fellow employees and managers, formal workplace provisions such as cultural or ceremonial leave or other types of provisions that relate specifically to Indigenous employees also have an important role. One of the only studies of the role played by formal workplace arrangements in supporting Indigenous employment is provided by Hunter and Hawke who find that workplaces with Indigenous employees were more likely than other workplaces to have a written policy on racial harassment and a formal grievance procedure to resolve disputes that arise on either racial or sexual harassment grounds.¹⁰

As Indigenous employment rates increase and the Indigenous population grows, increasing numbers of workplaces have Indigenous employees. One of the common factors reported by employers as being important to successfully employing Indigenous people is retaining Indigenous employees, and this is reflected in the Indigenous employment strategies of many companies.¹¹ This paper uses data on the provisions in federal workplace agreements to document the extent to which these agreements have formal provisions that relate specifically to Indigenous employees, how these vary according to workplace size and how they have changed over the period 1997–2013. This is the first systematic analysis of this issue of which we are aware. To the extent to which these types of work arrangements are a marker of the attitudes of workplaces towards Indigenous employment, the tracking



of trends in these provisions says something about how these attitudes are changing.

INDIGENOUS-SPECIFIC WORKPLACE ARRANGEMENTS

Information on Indigenous-specific formal workplace arrangements is readily available for federal collective agreements in the Workplace Agreements Database ('WAD').¹² The WAD contains information about every federal collective agreement made since the commencement of formal enterprise bargaining in federal workplace relations in 1991. Information recorded in the database includes conditions of particular interest to Indigenous people; cultural or ceremonial leave and Indigenous-specific provisions in federal agreements. While cultural or ceremonial leave can apply to any distinct cultural or religious group, other workplace agreements include specific provisions for the recruitment, promotion and other conditions of employment of Indigenous Australians.

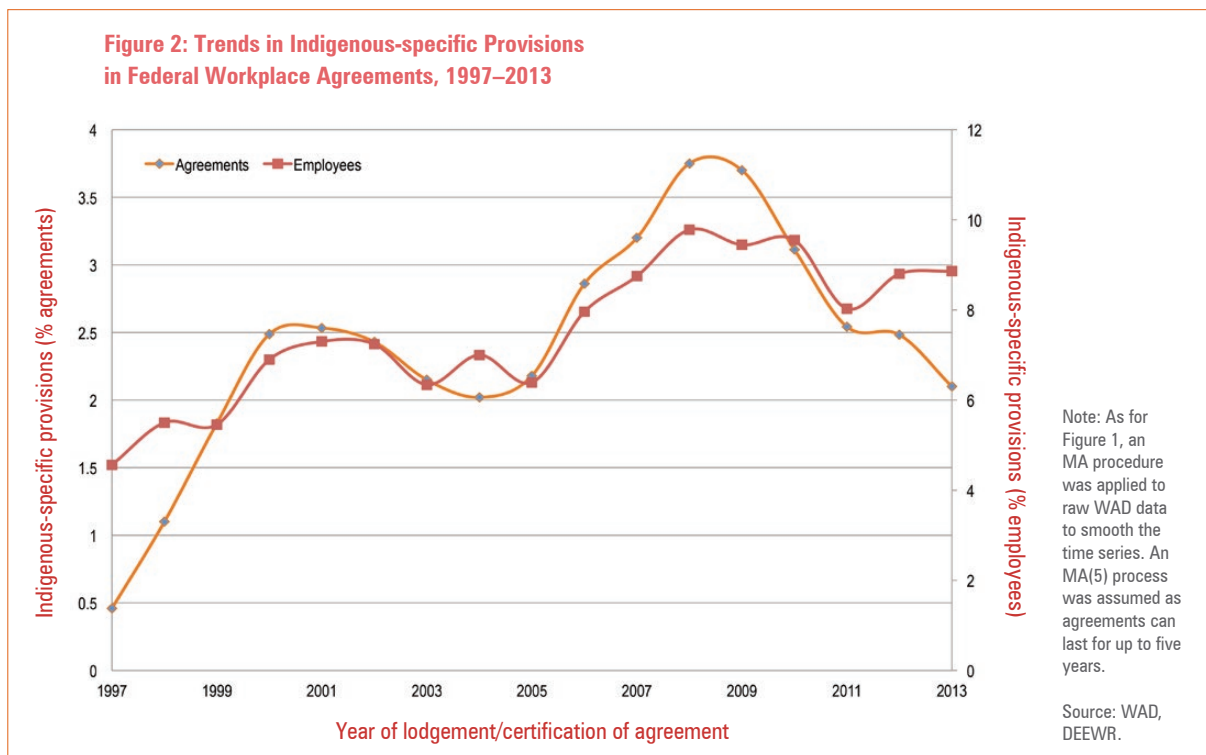
Collective workplace agreements between employees and employers are important for determining the wages and conditions of employment. Data from the WAD cover over one-third of non-managerial employees and hence provide an insight into likely trends in Australian workplaces.¹³ Before analysing workplace trends using WAD data, we should note that the agreements covered are more likely to be in particular industries rather than others; for example, 57 per cent of workplace agreements in the WAD for 2012 were associated with two industry categories: construction and manufacturing.

While the WAD covers the period from 1991, this paper focuses on the post-1997 period. This period was chosen because the basic institutional arrangements for collective workplace agreements between employees and employers changed in 1997 and while there have been some institutional changes post-1997 these have not, arguably, been as substantial as the 1997 changes. The duration of agreements varies and from July 2009 the maximum duration of an agreement was shortened from five years to four.¹⁴

TRENDS IN INDIGENOUS-FRIENDLY WORKPLACES

The duration of agreements and the average length may vary from year to year. Therefore in order to get a clear picture of the trends in the inclusion of Indigenous friendly provisions, the data on inclusion of the work practices is presented as the average over a five-year period (ie, the moving average of the raw data provided by the Australian Government Department of Education, Employment and Workplace Relations ('DEEWR')). Figure 1 provides data on the extent to which registered workplace agreements include cultural or ceremonial leave provisions for the period 1997–2013. The figure shows the proportion of agreements signed in each year that include these provisions and the proportion of employees covered by agreements with these provisions.

There has been a gradual increase in the proportion of agreements with cultural or ceremonial leave over time and an increase in the proportion of employees covered by agreements with these provisions. The estimated



proportion of agreements with cultural or ceremonial leave increased from about 2 per cent in 1997 to over 5 per cent in 2013, and the proportion of employees covered by these agreements who had access to these provisions increased from just under 15 per cent in 1997 to about 25 per cent in 2013 (Fig. 1 (see page 8)).

The trends in agreements and employee coverage track each other quite closely, although the proportion of employees covered by agreements with these provisions is higher than the proportion of agreements themselves, with these provisions. This is because workplaces with agreements that include cultural or ceremonial leave are, on average, much larger than those without these provisions.

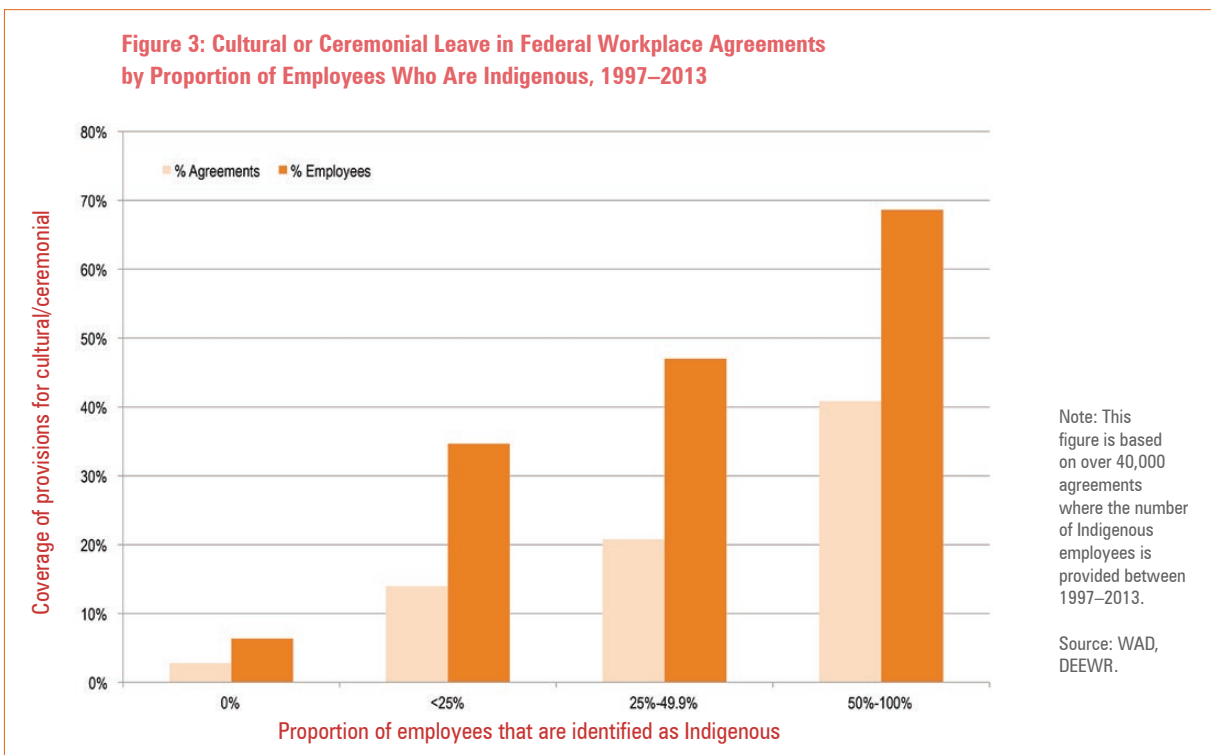
Figure 2 provides information about the extent to which federal awards include Indigenous-specific provisions. While there are sizable fluctuations in the proportion of agreements with these provisions in the raw WAD data, this is related to the cyclical nature of bargaining and the type of agreements negotiated, and much of that variation is eliminated when estimates are averaged over several years. Since 1997 there has also been a substantial increase in the proportion of workplaces and employees with Indigenous-specific provisions. For example, between 1997–2013, the estimated proportion of federal agreements with these provisions increased from about 0.5 per cent to just over 2 per cent and the proportion of employees working under federal agreements who had access to these provisions increased from about 4 per cent to just under 9

per cent (Fig. 2 (see page 9)). There are some fluctuations apparent in these trends over this period—for example, the proportion of workplaces with these agreements reaching just under 4 per cent around 2008.

TARGETING OF INDIGENOUS-FRIENDLY WORKPLACE PROVISIONS

This section considers the extent to which the inclusion of cultural or ceremonial leave and Indigenous-specific provisions in agreements varies according to the proportion of employees who are Indigenous. Figure 3 shows the proportion of federal agreements with cultural or ceremonial leave provisions and the proportion of employees covered by federal agreements which contain cultural or ceremonial leave provisions grouped by the proportion of employees in the workplace that identified as being Indigenous (0 per cent [none], 1–25 per cent, 25–49 per cent and 50 per cent or more). As the proportion of employees that are Indigenous becomes larger, the availability of cultural or ceremonial leave provisions increases. For example, in workplaces with no employees that identify as being Indigenous, 3 per cent have an agreement with cultural or ceremonial leave. This increases to 40 per cent in workplaces in which more than half the employees identify as being Indigenous. Figure 4 shows how the availability of Indigenous-specific provisions also increases with the proportion of employees identified as Indigenous.

One final observation derived by comparing Figures 3 and 4, which are measured on the same scale, is that cultural



or ceremonial leave is more common than Indigenous-specific provisions.

DIFFERENCES BETWEEN INDUSTRY IN INDIGENOUS-FRIENDLY WORKPLACE PROVISIONS

This section provides information on the extent to which Indigenous-friendly workplace provisions differ between industries. The industries examined are public administration and safety (public service), health care and social assistance (a substantial employer of Indigenous people) and other industries. As presented in Table 1 (see over), analysis of the WAD data reveals that employees in the area of Public Administration and Safety are more likely to have cultural or ceremonial leave in their agreements (20.2 per cent) than health care and social assistance (14 per cent) and much more likely than other industries (1.7 per cent).

There is much less difference between industries in the proportion of agreements with Indigenous-specific provisions than there is for cultural/ceremonial leave, although these provisions are relatively more common in Public Administration and Safety. It is noteworthy that Health Care and Social Assistance tends to have an emphasis on culturally appropriate leave provisions, but not on specific provisions for recruitment, promotion and other conditions of employment that are demonstrably relevant to an Indigenous workforce. This observation can be understood in the context that previous research has demonstrated that many Indigenous job seekers are attracted to work that helps Indigenous people.¹⁵ Given

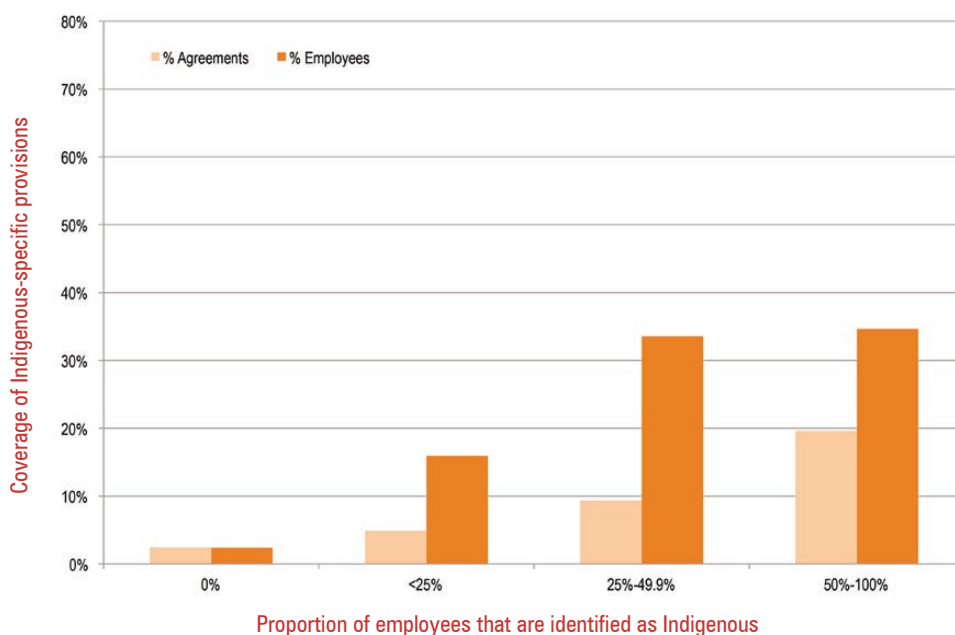
that this industry includes a substantial number of Aboriginal organisations providing health services directly to their communities, the main challenge may be to retain the Indigenous staff already employed.

CONCLUSION

The increases in Indigenous employment rates since the mid-1990s have been accompanied by an increased proportion of federal workplace agreements that either have leave provisions that acknowledge cultural diversity, or Indigenous-specific provisions in recruitment, promotion and other conditions of employment—both of which are associated with creating Indigenous-friendly workplaces. These provisions are also much more common in workplaces in which a substantial proportion of employees are Indigenous, than in workplaces with no or fewer Indigenous employees. While it is not clear whether these provisions have been introduced in response to workplaces having Indigenous employees or whether having these provisions means that a workplace attracts and retains more Indigenous employees, it is likely that both factors are working together.

If closing the gap targets in employment are to be achieved, then more workplaces need to become Indigenous-friendly. Organisations such as Reconciliation Australia and Generation One may have a role to play in achieving this goal. Reconciliation Action Plans ('RAPs') can provide a statement of intent, but achieving Indigenous-friendly workplaces will require resources. The positive and inclusive workplace initiatives identified in the 'model

Figure 4: Indigenous-specific Provisions in Federal Workplace Agreements by Proportion of Employees Who Are Indigenous, 1997–2013



Note: This figure is based on over 40,000 agreements where the number of Indigenous employees is provided between 1997–2013.

Source: WAD, DEEWR.

Table 1: Cultural or Ceremonial Leave and Indigenous-specific Provisions in Federal Workplace Agreements by Industry, 1997–2013

	Public Administration and Safety		Health Care and Social Assistance		Other Industries	
	Cultural/ceremonial leave	Indigenous-specific provisions	Cultural/ceremonial leave	Indigenous-specific provisions	Cultural/ceremonial leave	Indigenous-specific provisions
Agreements with provisions (%)	20.2	4.0	14.0	1.5	1.7	2.3

Source: WAD, DEEWR

RAPs' identified on the Reconciliation Australia website may provide one model for employers and businesses to build upon.

One possible policy response is to facilitate and further encourage growth in Indigenous business.¹⁶ Businesses that are controlled and run by Indigenous people have a key advantage in constructing an inclusive working environment in that the management is more likely to understand the needs and preferences of their Indigenous workforce.¹⁷

Other Australian businesses may have to work harder than Indigenous organisations or Indigenous businesses to attract and retain Indigenous staff. In addition to having adequate induction processes and culturally appropriate support and career development for Indigenous staff, it is particularly important to institute strategies to attract Indigenous staff, like ensuring short turnaround times in recruitment processes and advertising vacancies within Indigenous social networks.

In order to close the employment gap, Indigenous-friendly workplaces will need to become commonplace, rather than concentrated in a relatively small number of organisations. The policy challenge is to encourage all businesses, especially small-to-medium size businesses, to embrace a more inclusive workplace conditions.

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1 Matthew Gray, Monica Howlett and Boyd Hunter, 'Labour Market Outcomes' (CAEPR Indigenous Population Project: 2011 Census Paper 10, CAEPR, ANU, 2013).
 2 Ibid. These employment estimates are for mainstream employment. Under this measure of employment participants

in the Community Development Employment Projects (CDEP) scheme are classified as being not employed.

3 Matthew Gray and Boyd Hunter, 'The Labour Market Dynamics of Indigenous Australians' (2005) 41(4) *Journal of Sociology* 386; Matthew Gray, Boyd Hunter and Shaun Lohar, 'Increasing Indigenous Employment Rates' (CtG Clearinghouse Issues Paper No 3, Australian Institute of Health and Welfare, 2012). The 2011 wave of Household, Income and Labour Dynamics in Australia survey confirms such findings as Indigenous workers were employed in their current job for five years, while other Australian workers were employed in their job for seven years. The relatively high rate of job turnover of Indigenous employees is even more evident for the previous jobs where Indigenous workers were employed, on average, for one year and three months compared to the four years that other Australian workers held their previous jobs.
 4 See Gray, Hunter and Lohar, above n 3, for an overview of the relevant literature.
 5 Iain Campbell and John Burgess, 'A New Estimate of Casual Employment?' (2001) 27 *Australian Bulletin of Labour* 85.
 6 Amanuel Habtegiorgis and Yin Paradies, 'Utilising Self-Report Data to Measure Racial Discrimination in the Labour Market' (2013) 16 *Australian Journal of Labour Economics* 5.
 7 Nicholas Biddle et al, 'Labour Market and Other Discrimination Facing Indigenous Australians' (2013) 16 *Australian Journal of Labour Economics* 91.
 8 Matthew Gray and Jacqueline Tudball, 'Family-Friendly Work Practices: Differences Within and Between Workplaces' (2003) 45 *Journal of Industrial Relations* 269; Organisation for Economic Co-operation and Development ('OECD'), *Babies and Bosses – Reconciling Work and Family Life: A Synthesis of Findings for OECD Countries* (OECD, 2007).
 9 Marcia Langton and Odette Mazel, 'The Resource Curse Compared: Australian Aboriginal Participation in the Resource Extraction Industry and Distribution of Impacts' in Marcia Langton and Judith Longbottom (eds), *Foundations for Indigenous Peoples in the Global Mining Boom* (Harper Collins, 2012).
 10 Boyd Hunter and Anne Hawke, 'Industrial Relations in Workplaces that Employ Indigenous Australians' (Discussion Paper No 200, CAEPR, ANU, 2000).
 11 Australian Chamber of Commerce and Industry ('ACCI'), *Employing Indigenous Australians: Indigenous Employment Strategy Framework for Industry* (ACCI, 2005); Tony Tiplady and Mary-Anne Barclay, *Indigenous Employment in the Australian Minerals Industry* (Centre for Social Responsibility in Mining, 2007).
 12 WAD is collated by Department of Education, Employment and Workplace Relations ('DEEWR'). Information for state-based agreements is less readily available to researchers.
 13 The Australian Bureau of Statistics ('ABS') estimates that in 2012, 45 per cent of non-managerial employees were covered

by workplace agreements (34 per cent registered federally and 11 per cent registered with the respective states), while 18 per cent were regulated by existing awards (i.e., not paid more than award rates). The remaining 37 per cent of non-managerial employed, have their pay set by an individual contract, registered individual agreement (e.g., Australian Workplace Agreement), common law contract, or an agreement to receive over-award payments: ABS, 'Employee Earnings and Hours, Australia, May 2012' (Catalogue No 6306.0, ABS, 23 January 2013) <<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6306.0/>>.

14 This change was part of the *Fair Work Act 2009* (Cth).

15 Matthew Gray and Boyd Hunter, 'An Analysis of Data from the Longitudinal Survey of ATSI Job Seekers, Topic 2: Job Search Behaviour' (Report to Department of Employment, Workplace Relations and Small Business, CAEPR, ANU, July 2000) <<http://pandora.nla.gov.au/tep/39722>>.

16 Boyd Hunter, 'Recent Growth in Indigenous Self-Employed and Entrepreneurs' (Working Paper No 91, CAEPR, ANU, 2013). The number of Indigenous businesses have grown strongly since 1991. This trend is particularly pronounced in remote areas.

17 Ibid.

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