

A submission to the Productivity Commission on the Indigenous Evaluation Strategy

Jon Altman, Emeritus Professor, School of Regulation and Global Governance,
College of Asia and the Pacific, the Australian national University, Canberra.

Summary

My overarching argument in this submission is that policy that is based on equality aspirations only will be inequitable for those who aspire to live differently. On the other hand, policy only based on equity principles will struggle to ever deliver statistical equality. There is a need to consider the entitlements of Indigenous peoples as Australian citizens that rarely seem equitably delivered, while simultaneously recognising the special Indigenous rights that have now been bestowed under Australian law to some and that need strengthening for others. This indicates that an approach that acknowledges that poverty is a symptom of powerlessness and that politico-economic structural sources of inequality need to be addressed. A new policy framework, not a new evaluation framework, is what is most urgently needed.

In this submission I want to briefly argue that there is no point in establishing ‘a principle-based framework for the evaluation of policies and programs affecting Indigenous Australians’ as directed by the Treasurer in his letter of instruction in the absence of a ‘principles-based’ overarching policy framework.

For several decades now that overarching framework has looked to address Indigenous disadvantage by eliminating or reducing disparities according to official statistics between indigenous and non-Indigenous Australians as discrete abstracted populations—the focus of government Indigenous affairs attention has been on Indigenous populations as statistically defined subjects. This is deeply problematic for many reasons including that it valorises statistical equality above all else; it assumes that these two populations can be readily distinguished, even though many Indigenous and non-Indigenous people inter-marry and cohabit in what are invariably defined by the ABS as Indigenous households; and it assumes that there is a degree of identity stability in these two categories whereas in fact there is a high degree of dynamism, especially in the propensity for people to identify as Indigenous in official censuses and surveys.

I focus here on the broadest policy frame aiming to ‘close the gap’ that I have argued for several decades now is a potentially useful tool for measuring socio-economic sameness, but is a hopelessly inadequate tool for either recognising or measuring aspirations that many Indigenous Australians hold to live differently. While this policy framing has always had shortcomings, these have escalated over time as a result of governmental path dependency and a growing reluctance by governments to recognise Indigenous peoples as Australian citizens with special rights as First Peoples that are only available to some in limited form when land and other property rights are recognised and validated in Australian law (for example with native title rights and interests). The closing the gap framework was, in my view, illogical and incoherent when first devised in the 1980s and it is increasingly irrelevant, inappropriate and impossible to accurately evaluate.

Statistics on self-identifying Indigenous Australians have only been available from the five-yearly census since 1971. In 1977 I collaborated in a study on the economic situation of Indigenous Australians with John Nieuwenhuysen. We used 1971 census data to provide one frame for comprehending the depth of indigenous disadvantage, but then quickly shifted to highlight the diversity of Indigenous circumstances by both regional and settlement types and the impossibility of achieving any goals of statistical equality in many situations regional and remote contexts. Over forty years ago it was already clear from the perspective of economics that that any overarching national goal of statistical equality lacked realism even if it was appealing discursively and politically. Subsequently from 1978–82 I trained as an anthropologist and lived with a small group of Aboriginal, Kuninjku-speaking people at a homeland in western Arnhem Land in 1979 and 1980. (My knowledge of this area is not just historical; I have returned there sixty times since.) I quickly learnt that statistical equality was not a pressing priority for people living in remote and difficult circumstances on their land. If socioeconomic disparities were to be reduced in any culturally meaningful way, a diversity of policy approaches was required.

Over the years, I have watched escalating commitments first by the Commonwealth government and then by all Australian governments under the COAG umbrella to close statistical gaps.

The first such explicit policy commitment was made by the Hawke government under its Aboriginal Employment Development Policy in 1987, its managerial and over-ambitious response to selected recommendations contained in the Miller Review of Aboriginal Employment and Training Programs completed in 1985. The AEDP sought to deliver full statistical equality between Indigenous and other Australians in the areas of employment, income and education by the year 2000. These were three bold targets, especially the income equality target. But the AEDP failed.

Next in 1998, on the back of enduring criticism of ATSIC, self-determination and native title, all regarded as forms of symbolic reconciliation and unacceptable difference, the second Howard government committed to deliver equality of outcomes in health, housing, education and employment for Indigenous Australians, what it termed practical reconciliation—with no statistical evaluation framework or any timeframe. Certainly by 2007, nearly a decade later, it failed across all four broad outcome targets, as clearly evidenced by the early Overcoming Indigenous Disadvantage biennial reports by the Productivity Commission in 2003, 2005 and 2007. These reports themselves became the normative and evaluative basis for giving form to the ‘practical reconciliation’ policy agenda.

Next in 2008, the Rudd government in the National Indigenous Reform Agreement of all Australian governments brought in the highly prescriptive Closing the Gap framework, with six targets to be met, four in a decade, with another to close the school attendance gap added by Tony Abbott in 2014. Unlikely in previous iterations, of the seven targets, four (employment, child mortality, reading and numeracy and year 12 attainment) only sought

50 per cent closure. A decade later, it is debatable how many of these seven targets were achieved during the period 2008–2018, maybe two?

Most recently, in 2018, the Council of Australian Governments committed to refresh the Closing the Gap framework and a new draft set of seven priority areas (Families, Children, Youth; Health; Education; Economic Development; Housing; Justice, including Youth Justice; and Land and Water) with 12 defined outcomes and 12 statistical and three non-statistical targets have been set to be met to a flexible time frame ranging from 2020 to 2031. One cannot question the priorities, but the defined outcomes and what appear to be random targets seem to have no clear logic, and the new and ambitious Land and Water outcome (to ensure that Aboriginal and Torres Strait Islander peoples' land, water and cultural rights are realised) lacks a defined target to date. (As an example of conflicted policy objectives simultaneously the Attorney-General's Department is looking to reform native title legislation to dilute rather than strengthen the rights and interests of native title holders.) With this headline policy framework still in draft form and incomplete (at 23 August 2019) it is most unclear how the Productivity Commission can develop a comprehensive evaluation framework as directed. This is especially the case given the formal partnership made in March 2019 between the Commonwealth, state and territory governments, the National Coalition of Aboriginal and Torres Strait Islander Peak Organisations, and the Australian Local Government Association that commits to finalise new Close the Gap targets and to review the National Indigenous Reform Agreement.

This potted history of the failure of the overarching policy framework raises several important issues. Why do governments make political commitments and frame policy to close (or reduce) statistical gaps when regular policy evaluations, conducted at least annually from 2008, show this approach is failing? (The Productivity Commission itself has overseen the completion of seven Overcoming Indigenous Disadvantage Reports since 2003, four Indigenous Expenditure Reviews since 2010, ten annual reports on the National Indigenous Reform Agreement since 2008 and in 2015 a performance assessment of the National Indigenous Reform Agreement.) As the approach fails, why are more targets added? Is the political consensus in Canberra and governmental consensus by COAG just a form of escalating policy path dependency and antipathy to innovative policy formation? Or does it represent a dominant settler state determination to couch policy only in terms of assimilation and sameness and so intentionally ignore Indigenous diversity and difference? And what of the special rights and interests of First Peoples now enshrined in Australian law, can they too be ignored?

Interestingly, even as targets fail, more are added, while some of the most intractable, like halving the employment gap between Indigenous and other Australians, are rebadged as 'economic development'. This target has changed from a target to address relative disparity (to half close the employment gap) to one that is defined in absolute terms, now aiming for an employment/population ratio of 60 per cent by 2028—irrespective of what might happen in the labour market (with automation and artificial intelligence challenges) or how non-Indigenous Australians fare.

In 1991, I co-authored a book introduction with Will Sanders titled 'Government initiatives for Aboriginal employment: equity, equality and policy realism' (in a volume *Aboriginal Employment Equity by the Year 2000*). In this chapter we highlighted the conflation between equity that generally refers to fairness and equality; we were critical of the concept of 'statistical equality' that given the deep-rooted structural causes of Indigenous disadvantage was bound to fail in the medium term; and we lamented the absence of policy realism that had been a feature of the Miller Review abandoned in the bureaucratic formation of the AEDP. We argued that a combination of historical exclusion from the mainstream institutions of Australian society, dispossession, discrimination, demography, geographic distribution and cultural difference would all combine to make any task of delivering statistical equality for Indigenous Australians impossible.

The analytic categories equity, equality and policy realism are useful for highlighting the growing tensions in the current overarching policy framework.

Equity refers to 'fairness' or 'a fair go'. Increasingly it can be associated with special Indigenous rights defined in articles in the UN Declaration on the Rights of Indigenous Peoples belated endorsed by the Australian government in April 2009. These special rights are most clearly visible in land and native title that currently see nearly half the Australian continent under some form of indigenous title, with some associated property rights to resources for customary (non-market) and in some instances commercial use—hence the new Land and Water priority area. But special rights can also be considered in the context of potential claims for compensation and redress for historical injustice and dispossession that may yet be negotiated in the context of treaties or regional agreements. Equity suggests that as people with special communal land titles, Indigenous landowners would have rights to live on their land. But all Australian governments are unwilling to support such aspirations, especially when landowners seek to live at outstations or homelands on their ancestral lands.

Since the 'self-determination' era Indigenous special rights have increasingly been relegated in favour of statistical equality. Unfortunately, less attention to equity can result in less statistical equality and growing gaps as clearly demonstrated with growing Indigenous poverty rates in very remote Australia in the last intercensal period—over 50 per cent of people in Indigenous households in very remote Australia now live below the poverty line. This growth in impoverishment can be linked directly to the policy shift from the Community Development Employment Projects scheme, an Indigenous-specific program to the Community Development Programme, apparently a mainstream regional program that just happens to be administered by the National Indigenous Australians Agency within the Department of Prime Minister and Cabinet with providers funded under the indigenous Advancement Strategy.

Statistical equality suggests that as Australian citizens Indigenous peoples should experience similar levels of services delivery and outcomes as other Australians. But given the historical legacy borne by many Indigenous people, as already outlined, needs-based citizenship

entitlements will require additional support. However, no agency to date has been bold enough to estimate the cost of this shortfall. As the Productivity Commission itself noted in the *2017 Indigenous Expenditure Report* 'This report does not assess the adequacy, effectiveness and efficiency of government expenditure on Aboriginal and Torres Strait Islander Australians'. One only needs to visit any of over one thousand discrete Indigenous communities to see the level of neglect in housing, infrastructure, community services and telecommunications. Indeed, at outstations and homelands, there may be no services whatsoever, although documenting such neglect nationally has become increasingly difficult since the Australian government stopped funding the ABS to undertake the Community Housing and Infrastructure Needs Survey in 2006.

The tension between equity and equality is partly reflected in the declining significance of indigenous-specific programs that the Productivity Commission estimated accounted for just 18 per cent of total expenditure purportedly earmarked for Indigenous Australians in 2017. Conversely, an estimated 82 per cent of the estimated expenditure on Indigenous Australians is by mainstream programs in mainstream Commonwealth/State and Territory department. And it is also reflected in the obfuscation in policy between mainstream and Indigenous-specific programs and between Commonwealth and State/Territory (and local) governments' funding obligations to Indigenous peoples. This lack of clarity in the Treasurer's letter of instruction is replicated in the Productivity Commission's Issues Paper (June 2019) where Closing the Gap and the Indigenous Advancement Strategy, Indigenous-specific policies and administrative arrangements respectively sit alongside the National Disability Strategy, a mainstream program that sits alongside the Community Development Program that government defines as a regional program (even though its publicly-available program logic framework only refers to Indigenous unemployed and as noted above it is administered by NIIA) to the Indigenous Procurement Policy that only requires Indigenous businesses to be 51 per cent Indigenous-owned and so can be a mixed Indigenous/non-indigenous policy.

Much of this incoherence was highlighted nearly a decade ago by the then Department of Finance and Administration's *Strategic Review of indigenous Expenditure 2010* released in 2011 in the public interest under FOI law. Important issues of overarching policy design to close the gaps have been neglected by successive governments. Instead we are seeing a focus on an evaluation framework as if evaluation, a second order issue, will shape sensible policy making, the first order issue. Policy realism suggests that we need realistic policy.

I acknowledge that my critique of the dominant Closing the Gap framework is not shared by a number of Indigenous agencies (many members of the recently formed National Coalition of Aboriginal and Torres Strait Islander Peak Organisations) who see the framework and its evaluation as a means to hold governments accountable and to highlight the extent of need. I respect this perspective, having shared it in the past, as well as their need to get a seat at the table to negotiate for adequate funding with the government of the day. But I believe the issues that I highlight do raise important questions about disparity definition, policy design, effective targeting of assistance and subsequent evaluation. Some of these issues

are technical and complex and I will merely allude to them briefly here. But they are important because they reflect the need for the development of a policy framework that is cognisant of Indigenous lived reality and diversity of circumstances and aspirations. There is a distinct possibility that even as policy fails to close statistically defined gaps, the extent of disadvantage is underestimated.

Who is the statistical Indigenous subject that has become the object of so much government intervention? The historical perspective that I deploy has seen marked shifts in both the size and location of the officially defined census count. In 1971 there were an estimated 116,000 Indigenous Australians in the census count, a number that has increased to 649,000 by 2016 at a compound growth rate of 4 per cent per annum. In 1971, 15 per cent of the Indigenous population lived in major urban areas, by 2016 this proportion had increased to 42 per cent at a compound annual growth rate of 6.3 per cent per annum. Conversely the proportion who lived in the 'section of state' defined as 'any rural' totalled 56 per cent in 1971 and declined to 21 per cent in 2016 at a compound growth rate of 1.6 per cent per annum. These dramatic shifts have been replicated at the state and territory levels. For example, in 1971 the NT and NSW has similar Indigenous population counts of 23,301 and 23,873 respectively, just over 20 per cent of the count each. By 2016, the NT count was 58,248 (compound annual growth rate of 2%) representing 9 per cent of the total, while the NSW count was 216,176 (5% annual growth) and 33 per cent of the total. These highly variable population growth rates clearly have implications for policy design, funding allocations and outcomes evaluation.

These significant changes in the size and distribution of the Indigenous population have important policy implications. Much of the population change in major urban settings has more to do with identity shifts than fertility or migration. This in turn raises important questions not so much about relative wellbeing, because the census and other surveys tell us relative need is everywhere, but about how to target individuals who might self-identify as Indigenous but live outside community settings. It also raises important questions about the balance between Indigenous-specific and mainstream services delivery, with the former more readily administered by community organisations, irrespective of location and the latter more readily available nominally in major urban settings, although levels of effective access might be limited.

The efficacy of the census and other surveys in measuring both need and effectiveness have limitations in such a dynamic demographic context. For a start it is only the census count that can provide relatively accurate comparative information. But the Indigenous resident population estimated after the post-census post enumeration survey conducted by the ABS consistently indicates significant undercount and misidentification ranging from 16 per cent in the ACT to 32 per cent in WA. The socioeconomic situation of the significant proportion of the estimated population are unknown and may be lower than those in the count. Similarly, information in the census is collected in two ways, using the Interviewer Household Form under the Discrete Community and Remote Area Strategy for over 50,000

Indigenous households and using the Standard Form for others. It is unclear what impact this has on data quality.

The question of household composition is also potentially problematic. The ABS classify a household as Aboriginal and Torres Strait Islander if it has at least one Aboriginal and/or Torres Strait Islander person (not adult) who is a usual resident and who was present on Census night. In 2016, there were just over 250,000 non-Indigenous people in Indigenous households representing 29 per cent of the total Indigenous household count. This proportion is far higher, possibly 10 per cent higher, if one assumes that all persons aged under 15 years are identified as Indigenous. The dilemma here is that either policy focuses on individuals who identify as Indigenous (and so divorces people from their immediate familial and social surrounds) or focus on Indigenous households inclusive of many non-Indigenous people live in indigenous households. This highlights the artificiality of the official indigenous/non-indigenous distinction in the Closing the Gap paradigm.

I want to end this submission by re-iterating that numerous evaluations of the current Closing the Gap policy paradigm have indicted unequivocally that it is failing. So, the task on hand is not, in my view, to develop a new evaluation framework but to develop a new policy framework. In making this submission I realise that the Productivity Commission is instrumentally seeking input on its Issues Paper but I do not want to be corralled by the Treasurer's letter of instruction that seems to me to divert attention from the higher level and more pressing question: does the current policy framework make sense? And if not, how might we make it more sensible?

A report 'Today's problems, yesterday's toolkit: Restoring trust in government by reinventing how the public service works', released earlier this month by ANZOG notes that trust in government is at an all-time low. It would not be contentious, I think, to say that Indigenous Australians probably have a particularly low level of trust in the institutions of the settler colonial state. This is especially the case at a time when the Commonwealth government appears fearful of hearing from an Indigenous Voice to the parliament that many Indigenous Australians are demanding. The comprehensive ANZOG report makes many suggestions, but one that stands out for me is the need to develop 'policies and practices rooted in deep collaboration with those that government services most affect'.

A case could be made that the Closing the Gap Refresh is the product of such deep collaboration, but its very title suggests its foundations lie in a decades-old government-driven paradigm to deliver sameness. To deliver improvement will require a fuller appreciation of the diverse forms of contemporary Indigenous ways of living. This in turn will require a recognition that the proper role of the state is to get institutional settings right for diverse forms of improvement that emerge from a negotiated process—with wellbeing defined by Indigenous peoples in all their diversity rather than by some state preconceived notions based on census or survey based social indicators. To be effective, policy needs to be clear on how assistance will be targeted, given the reality of Indigenous demographics and patterns of residence. In remote Australia discrete and spatially bounded Indigenous communities are easier to identify, but there are limited mainstream options so Indigenous-

specific programs that were more fashionable in the past might need to be reconsidered. Conversely, in densely settled regions and urban centres there are mainstream programs, but insufficient information on equity of access or whether Indigenous-specific programs delivered by urban based community organisations might be more effective than mainstream providers. Targeting Indigenous people in non-remote Australia where the majority now live is increasingly difficult because 'Indigenous households' are residentially dispersed.

I want to end with a brief note of caution to the Productivity Commission and a disclaimer.

In April 2019 Treasurer Josh Frydenberg's instructed the Productivity Commission to develop a whole-of-government framework for evaluating policies and programs [undifferentiated] affecting Indigenous Australians. This assignment is potentially problematic because Indigenous Australians are affected by both mainstream and Indigenous-specific policies and programs, the former as Australian citizens, the latter as Indigenous-identifying Australians or special citizens. So, the task before the Productivity Commission is to evaluate the effectiveness of engagement of all Australian governments and all their policies and programs with all Indigenous Australians. This is a massive task to be completed in the time frame available; and as suggested in my submission getting the evaluation framework right is a second order issue to getting the policy and associated programs framework right.

Finally, I want to acknowledge that some of the material presented draws on ongoing collaborations with Dr Francis Markham from the Australian National University. But all the views expressed here are my own.