

I'm responding with some apprehension to the Productivity Commission's call for submissions in response to its Draft Indigenous Evaluation Strategy because I fear that two fundamental questions have not been asked during the process of producing the Issues paper or the present draft strategy: **who are Australia's indigenous? And for whom are Indigenous policies intended?**

It is often said that there are about 800,000 'indigenous' Australians, and the numbers reported by Productivity Commission in its description of 'indigenous' population characteristics in its Issues paper are consistent with this<sup>1</sup>. But, who are these indigenous people; does their enumeration derive from a rigorous or indeed a legal definition?

The 800,000 derives from an estimate by the Australian Bureau of Statistics (ABS) that at best is of the number of people in Australia who, regardless of any other ancestry, have Aboriginal or Torres Strait Islander ancestors<sup>2</sup>. It is not an estimate of the number of Aboriginal Australians under the tripartite test established by Australia's High Court in 1992 (*Mabo v Queensland*).

That number may be substantially less.

In February 2020 the High Court (*Love and Thoms v Commonwealth of Australia*) re-affirmed the High Court's test, that to be regarded as an Aboriginal a person must: be biologically descended from Aboriginal people; self-identify as an Aboriginal person; and be recognised as a member of an Aboriginal group by its elders or those with traditional authority to determine its membership.

So, how many Aboriginal Australians are there under this tripartite test?

Firstly, on **the number of Australians who have Aboriginal descent**, the ABS applies an awkward binary 'classification' of Australians into 'indigenous' and 'non-indigenous' on the basis of responses to Census questions asking about Aboriginal or Torres Strait Islander 'origin'. It enumerated 649,171 Australians as being 'of indigenous origin' in its 2016 Census<sup>3</sup>, much higher than in previous Censuses though considered by the ABS to be a significant under-enumeration<sup>4</sup>.

The word *origin* is capable of many interpretations but, although most Australians 'of indigenous origin' are likely to be of mixed racial and cultural origins after more than two centuries of intermingling (fewer than a quarter of 'indigenous' children have both parents of indigenous origin<sup>5</sup>), if the word is taken to be synonymous with *descent* the ABS's enumeration may meet the first part of the High Court's test.

Secondly, on the question of **how many people identify as Aboriginal**, people do not necessarily identify with any, or just one, ethnic group. The ABS does not collect explicit data on cultural or racial identities, but it does ask questions in Censuses about languages spoken, ancestries and birthplaces. On languages, 63,754 people (fewer than ten per cent of people of indigenous origin) reported speaking indigenous languages at home in 2016.

In response to the 2016 Census, when asked to nominate up to two ancestries only 159,416 Australians<sup>6</sup> (fewer than a quarter of Australians of indigenous origin) reported having an Aboriginal or Torres Strait Islander ancestry. Although respondents may have differing understandings of *ancestry* the numbers are similar to earlier censuses, suggesting that many Australians enumerated as of indigenous origin do not identify strongly with any Aboriginal or Torres Strait Islander ancestry.

It is possible that people of indigenous origin may have claimed an ancestry in some of Australia's many cultural/linguistic groups rather than as Aboriginal or Torres Strait Islander, but that cannot be known<sup>7</sup>. It is possible also that they claimed 'Australian' ancestry but that is what more than thirty

percent of all Australians enumerated (both indigenous and non-indigenous) did, which doesn't explain very much!

Thirdly, on **how many people are recognised as Aboriginal**, Aboriginal Land Council membership could be a guide but comprehensive data are hard to come by. In New South Wales, the State with the largest number of Australians of indigenous origin enumerated in 2016, 15,426 people (barely ten per cent of people of indigenous origin aged 15 and over) were enrolled to vote for Aboriginal Land Councils in 2019<sup>8</sup>.

In Tasmania, the State with the fewest number of Australians of indigenous origin, fewer than 200 were enrolled to vote for the Aboriginal Land Council of Tasmania in 2017/8<sup>9</sup>. The Tasmanian experience in 2002, when 1298 applied for inclusion on the Tasmanian indigenous roll for ATSIC elections but only 750 were eventually judged entitled to vote, illustrates just how difficult it can be to win recognition<sup>10</sup>.

Census and other data do not seem to support the idea that there may be 800,000 Aboriginal Australians. If the number of Australians who meet the High Court's tripartite test for Aboriginality is significantly smaller than this, this is highly relevant to the Productivity Commission's Inquiry.

If ABS census reporting exaggerates the numbers of Australians who actually identify as Aboriginal Australians, indigenous disadvantage may be more profound than is generally understood from *Closing the Gap* reports<sup>11</sup> because, as the Commission has noted<sup>12</sup>, those reports rely extensively on data from Australians who have actively identified as Aboriginal or Torres Strait Islander.

Self-identified data cannot be matched against Census numbers which have been generated by the ABS deciding ethnic identities of Australians as 'indigenous' (or 'non-indigenous') on the basis of responses to a poorly framed question about 'origins'.

However, while ABS data may not be strictly comparable with numbers in *Closing the Gap* reports, its Censuses do consistently show a worrying extent of indigenous disadvantage in matters such as incomes, employment, education and housing. I am not questioning that there is grave disadvantage among indigenous Australians however defined by the ABS.

Census small-area data show also that this disadvantage is distributed in a manner that is often both unequal between people and geographically uneven between small areas<sup>13</sup>, which begs the question 'who is benefitting from programs intended, presumably, to deliver to all Australian Aboriginal people and their dependants access to the levels of public services taken for granted by most Australians?'

I acknowledge that the ABS cannot generate data that matches precisely the High Court's definition of Australian Aboriginality. However multi-response Census questions on 'ethnicity' and 'descent' (rather than questions with uncertain meanings about 'ancestry' and 'origins'), such as used in New Zealand's 2018 Census, would give more precise data than is currently available<sup>14</sup>.

As to the discrepancies between census enumerations and ABS estimates I am surprised, in comparing estimated populations of 'indigenous' at 30 June 2016<sup>15</sup> with indigenous populations enumerated in the 2016 Census<sup>16</sup>, that there should be very large discrepancies not just in areas categorised by the ABS as 'remote' and 'very remote' but even in areas categorised by the ABS as 'major cities'.

Some under-enumeration is inevitable in Censuses, especially of people living in small, remote, segregated communities, but discrepancies of this magnitude undermine confidence in both

censuses and estimates. If the ABS has administrative data which supports its much higher estimates it should apply these to getting more precise enumerations in censuses.

**I submit that the first step in any strategy for evaluating indigenous policy must be to get better data on Aboriginal Australian numbers. Good policy demands good numbers.**

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<sup>1</sup> Productivity Commission, *Indigenous Evaluation Strategy – Issues Paper*, 2019, pp 12-13.

<https://www.pc.gov.au/inquiries/current/indigenous-evaluation/issues>

<sup>2</sup> ABS, 2018, *Estimates of Aboriginal and Torres Strait Islander Australians, June 2016*

<https://www.abs.gov.au/ausstats/abs@.nsf/mf/3238.0.55.001>

<sup>3</sup> 2016 Census data reported here are taken from the ABS, *General Community and Aboriginal and Torres Strait Islander Profiles*, except where indicated otherwise

<sup>4</sup> ABS, 2018, *Estimates of Aboriginal and Torres Strait Islander Australians, June 2016, Technical Note*

<https://www.abs.gov.au/ausstats/abs@.nsf/7d12b0f6763c78caca257061001cc588/88b47d60dbd6c988ca2574a900132f99!OpenDocument>

<sup>5</sup> ABS, *Census of Population and Housing: Understanding the Increase in Aboriginal and Torres Strait Islander Counts, 2016*,

<https://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/2077.0~2016~Main%20Features~Changing%20Propensity%20to%20Identify~125>

<sup>6</sup> Reported [with some double counting] by ID.Com at

<https://profile.id.com.au/australia/ancestry?submissionGuid=5bd86694-10e9-4f52-b27e-475c1e44ea7a>

<sup>7</sup> This compounds the problem of not knowing how many language/cultural groups there are in Australia or how many people identify with them. See, eg Jane Simpson, 'The state of Australia's Indigenous languages – and how we can help people speak them more often', *The Conversation*, 21 January, 2019, <https://theconversation.com/the-state-of-australias-indigenous-languages-and-how-we-can-help-people-speak-them-more-often-109662>

<sup>8</sup> <https://www.elections.nsw.gov.au/Elections/Other-elections/Aboriginal-Land-Council-Election-2019>

<sup>9</sup> Tasmania Electoral Commission, Aboriginal Land Council election 2017/8,

<https://tec.tas.gov.au/OtherElections/ALCT/index.html>

<sup>10</sup> John Gardiner-Garden, 2002, *Defining Aboriginality in Australia*, Australian Parliamentary Library, Current Issues Brief no. 10 2002-03

[https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/Publications\\_Archive/CIB/cib0203/03Cib10](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Publications_Archive/CIB/cib0203/03Cib10)

<sup>11</sup> eg National Indigenous Australians Agency, *Closing the Gap 2020*.

<https://ctgreport.niaa.gov.au/sites/default/files/pdf/closing-the-gap-report-2020.pdf>

<sup>12</sup> Productivity Commission, 2019, *indigenous evaluation strategy, Issues Paper*, Box 12, p 40

<sup>13</sup> ABS, *Census of Population and Housing: Reflecting Australia - Stories from the Census, 2016 - Aboriginal and Torres Strait Islander Population*, <https://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/2071.02016?OpenDocument>

<sup>14</sup> Statistics New Zealand, 2018 Census: Design of forms, <https://www.stats.govt.nz/methods/2018-census-design-of-forms>.

As a *pakeha*-Australian, I observe that the New Zealand standard would also ensure a more accurate enumeration in Australia of people of New Zealand origin (by distinguishing New Zealand European from other European ancestries, and by distinguishing also New Zealand Māori from Cook Islands and Niuean Māori.

<sup>15</sup> ABS, *Estimates of Aboriginal and Torres Strait Islander Australians, June 2016*

<https://www.abs.gov.au/ausstats/abs@.nsf/ProductsbyTopic/9E334CF07B4EEC17CA2570A5000BFE00?OpenDocument>

and ABS, *Census of Population and Housing: Characteristics of Aboriginal and Torres Strait Islander Australians*,

2016, <https://www.abs.gov.au/ausstats/abs@.nsf/7d12b0f6763c78caca257061001cc588/42c869c663abfea3ca2583bb00e221f!OpenDocument>

<sup>16</sup> ABS, *Census of Population and Housing: Characteristics of Aboriginal and Torres Strait Islander Australians*,

2016, <https://www.abs.gov.au/ausstats/abs@.nsf/7d12b0f6763c78caca257061001cc588/42c869c663abfea3ca2583bb00e221f!OpenDocument>