LINKING INDIGENOUS COMMUNITIES WITH REGIONAL DEVELOPMENT: AUSTRALIA OVERVIEW

K. JORDAN, F. MARKHAM J.C. ALTMAN

CAEPR LINKS

Click here to open bookmarks, and to access quick links to the CAEPR website, including:

- Discussion Papers
- Working Papers
- Research Monographs
- Topical Issues
- Census Papers
- Policy Insights Papers

Front cover image:
Terry Ngamandarra Wilson, Gulach (detail), painting on bark, private collection © Terry Ngamandarra, licensed by Viscopy, 2016

Suggested citation:
Jordan, K., Markham, F. and Altman, J.C. (2020), Linking Indigenous Communities with Regional Development: Australia Overview, Commissioned Report No. 5, Centre for Aboriginal Economic Policy Research, Australian National University. https://doi.org10.25911/5f7edceea4190

Linking Indigenous Communities with Regional Development: Australia Overview

K. Jordan, F. Markham and J.C. Altman

Kirrily Jordan is a Visiting Fellow at the Centre for Aboriginal Economic Policy Research (CAEPR), Research School of Social Sciences, College of Arts & Social Sciences, Australian National University. **Francis Markham** is a Research Fellow at CAEPR. **Jon Altman** is a Professor Emeritus at the School of Regulation and Global Governance (RegNet), Australian National University.

Abstract

This report was Commissioned by the Organisation for Economic Co-operation and Development (OECD) in 2018 for their project 'Linking Indigenous communities with regional development'. Intended for international comparison with other OECD nations, it is written more-or-less to a thematic template provided to us for this purpose. The OECD selected the parts they wanted for their project, but we were always at liberty to publish our full report in the name of transparency. This report discusses key issues in demography, governance and policy as they relate to Indigenous Peoples in Australia. It focuses on the 'governance of government', including the difficult institutional environment that many Indigenous communities and organisations face. It provides a brief history of policy approaches that the settler colonial state has adopted in relation to Indigenous Peoples in Australia, from the violent dispossession of the early stages of colonisation through protection and assimilation to the current concern with 'Closing the Gap'. It acknowledges the active campaigns of Indigenous Peoples in Australia over many decades to progress agendas of structural change including calls for treaties, land rights and self-determination. We conclude the report with a discussion of several issues that should be central to policies and programs seeking to promote economic development of, for and by Indigenous Peoples.

Keywords: Indigenous, economic development, self-determination.

Acronyms

ABA	Aboriginals Benefit Account
ALFA	Arnhem Land Fire Abatement
ALRA	*Aboriginal Land Rights Act (Northern Territory) 1976*
ANAO	Australian National Audit Office
ANU	Australian National University
ATSIC	Aboriginal and Torres Strait Islander Commission
CAEPR	Centre for Aboriginal Economic Policy Research
CDEP	Community Development Employment Projects
CHIP	Community Housing and Infrastructure Program
COAG	Council of Australian Governments
FCAATSI	Federal Council for the Advancement of Aborigines and Torres Strait Islanders
HDI	Human Development Index
IBA	Indigenous Business Australia
IAS	Indigenous Advancement Strategy
ILSC	Indigenous Land and Sea Corporation
ILUA	Indigenous Land Use Agreement
LDM	Local Decision Making
NAC	National Aboriginal Conference
NACC	National Aboriginal Consultative Committee
NATSISS	National Aboriginal and Torres Strait Islander Social Survey

NCARA	NSW Coalition of Aboriginal Regional Alliances
NGO	Non-government organisation
NSW	New South Wales
NTER	*Northern Territory National Emergency Response Act 2007*
OCHRE	Opportunity, Choice, Healing, Responsibility, Empowerment
OECD	Organisation for Economic Co-operation and Development
PM&C	Department of the Prime Minister and Cabinet (Australian Government)
SME	Small and Medium Sized Enterprise
TSRA	Torres Strait Regional Authority
UN	United Nations
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
WALFA	West Arnhem Land Fire Abatement

Contents

Figures

Foreword

On 16 February 2018, Dr Chris McDonald, a policy analyst at the Organisation for Economic Co-operation and Development (OECD) in the Regional Development and Tourism Division, Centre for Entrepreneurship, Small and Medium Sized Enterprises (SMEs), Regions and Cities in Paris wrote to Professor Jon Altman inviting his involvement in a research project. Dr McDonald explained his position managing a project on Indigenous economic development involving Australia, Canada and Sweden.[1] The project aimed to create a platform for learning and exchange of best practices amongst community leaders and policy makers about Indigenous economic development in a place-based context. It was to produce a global/thematic report and country case studies and was guided by four key questions:

1. Trends and statistics: What is the role and contribution of indigenous peoples to regional/national economies, and which factors constrain/enable their economic participation at a regional level?
2. Land and economic development: What are the key features of governance arrangements that enable indigenous communities to realise the development potential of land and related natural resources, including negotiating benefits with investors to create sustainable business and employment opportunities?
3. Business growth: What policies help promote the growth and innovation of Indigenous businesses in rural areas, particularly in the tradeable sector?
4. Governance and capacity: What incentives and mechanisms should be implemented to support an integrated place-based approach to development that is inclusive of, and empowers, indigenous communities?

After consultation with the Australian Government's Department of Prime Minister and Cabinet, Professor Altman was invited by the OECD to assist the project in two ways:

1. as a peer reviewer to provide comments on the key outputs (conceptual papers, thematic report, and the country case study for Australia)
2. to write a short contribution (15–20 pages) on the policy and institutional history of Indigenous Affairs in Australia, and an overview of key policy and academic debates on Indigenous economic development (which would be an input to the country case study).

It was anticipated that the research would be undertaken to a tight timeline and that a draft would be completed prior to a field and consultation visit by OECD staff to Australia in July 2018.

Owing to other immediate commitments and keen to ensure broader disciplinary and intellectual perspectives, Professor Altman suggested that he collaborate with Drs Kirrily Jordan and Francis Markham, colleagues at CAEPR at the ANU in undertaking the second task. This proved acceptable to the OECD, alongside an understanding from the outset of negotiations that in the interests of transparency and accountability to diverse interests in Australia, the co-authored report would be subject to jointly owned intellectual property and that we would retain a right of publication.

---

[1] For more information see https://www.oecd.org/regional/indigenous-communities.htm

Our literature-based review was submitted to the OECD as a consultancy report on 15 March 2019. The final OECD report *Linking Indigenous Communities with Regional Development* of some 348 pages was published on 16 July 2019.[2]

As per our agreement with the OECD, we are now publishing our report as a CAEPR Commissioned Report The content of this publication has not changed since it was submitted to the OECD, apart from formatting changes and the correction of a few typographical errors.

Given the complexity of our terms of reference, it is not surprising that our report is more than twice the length originally anticipated. Its publication accords with our initial negotiated commitment as university-based researchers to transparency and accountability. We now also believe that publication of our *Australia Overview* report is additionally important given that our perspectives outlined in this paper differ in many ways from those published in the OECD's comparative study. Hopefully, having both available will stimulate additional debate about appropriate development policy both in Australia and overseas.

Kirrily Jordan, Francis Markham and Jon Altman

October 2020

---

[2] OECD, 2019, *Linking Indigenous Communities with Regional Development*. OECD Publishing, Paris. Available at https://doi.org/10.1787/3203c082-en

Introduction

Aboriginal peoples have occupied and managed the Australian continent for approximately 65 000 years, with Torres Strait Islanders occupying the islands to the north of Cape York for over 7000 years. The impacts of colonisation since 1788 have been profound. The Australian settler-colonial state has been largely built on a denial of Indigenous property rights and political and citizenship equality. For many Indigenous peoples this has meant dispossession of their lands and economic resources and a loss of control over many of the decisions that affect their lives. Indigenous resistance has been ongoing, including through social and political movements that led to the enactment of land rights legislation from the 1970s and native title legislation from the early 1990s. While the ongoing legacy of colonisation is uneven and some connections to lands and families remain obscured or inaccessible, these developments have enabled many Indigenous peoples to reclaim ownership or use of vestiges of their ancestral lands and seas. Over 46% of the continent has now been returned to Indigenous peoples under a variety of tenures, creating opportunities for many Indigenous groups to utilise their land and continuing cultural and ecological knowledges for economic development projects in which they have unique competitive advantages.

The Indigenous population of Australia is now estimated to be almost 800 000, or 3.3% of the total population. There is a great diversity among Indigenous peoples which has significant implications for economic and political opportunity and aspiration. However, Aboriginal and Torres Strait Islander peoples have consistently advocated for their rights to self-determination, a key principle enshrined in the United Nations Declaration on the Rights of Indigenous Peoples that was signed by the Australian Government in 2009. The most recent expression of this advocacy is a call for a constitutionally-enshrined Indigenous 'Voice' (or 'Voices') to parliament to help shape policy and legislation in Indigenous affairs, as well as a Makarrata [Peace-making] Commission to supervise a process of agreement-making between governments and Indigenous peoples and truth-telling about Australia's violent settler-colonial history.

Despite these efforts, and some moves towards treaties in state and territory (subnational) jurisdictions, the Australian Government continues to resist demands for Indigenous self-determination. A long colonial history and the ongoing effects of marginalisation from control of the social and political institutions that affect their lives mean that, as a group, Indigenous people are disadvantaged in Australia on almost every mainstream socioeconomic indicator. Indigenous socioeconomic disadvantage has been the subject of considerable political, policy and media attention, especially over the past decade with annual reports to the Australian parliament on 'Closing the Gap', a policy framework encompassed in the National Indigenous Reform Agreement co-signed by the Australian Government and all state and territory governments in 2008. While this approach has a national focus, it looks to simultaneously target Indigenous people living in a diversity of geographic circumstances from metropolitan to very remote situations, including what are officially termed 'discrete Indigenous communities'; and in a diversity of social fields from individuals to families and households.

More than 80% of Indigenous people live in non-remote areas. This group are disadvantaged relative to the non-Indigenous population, but, as a group, are relatively socioeconomically advantaged on most standard indicators relative to the remote Indigenous population. The *number* (not proportion) of Indigenous people living in disadvantaged circumstances such as cash poverty is highest in urban and regional locations. However, it is in the most remote parts of the country, and especially in discrete Indigenous communities, that socioeconomic disadvantage is most concentrated and most visible. There are about 1000 discrete Indigenous communities in Australia where the population is predominantly – and in some situations exclusively – Indigenous. As most of these communities are in 'Remote' and 'Very Remote' Australia, regions demarcated by the Australian Bureau of Statistics that spatially cover 85% of the Australian continent, our principal focus will be on these communities and the 150 000 Indigenous people who live in the remote geographical region (see Fig 1.).

Fig. 1   The geographical distribution of discrete Indigenous communities in Australia, relative to the Australian Bureau of Statistics' remoteness classification
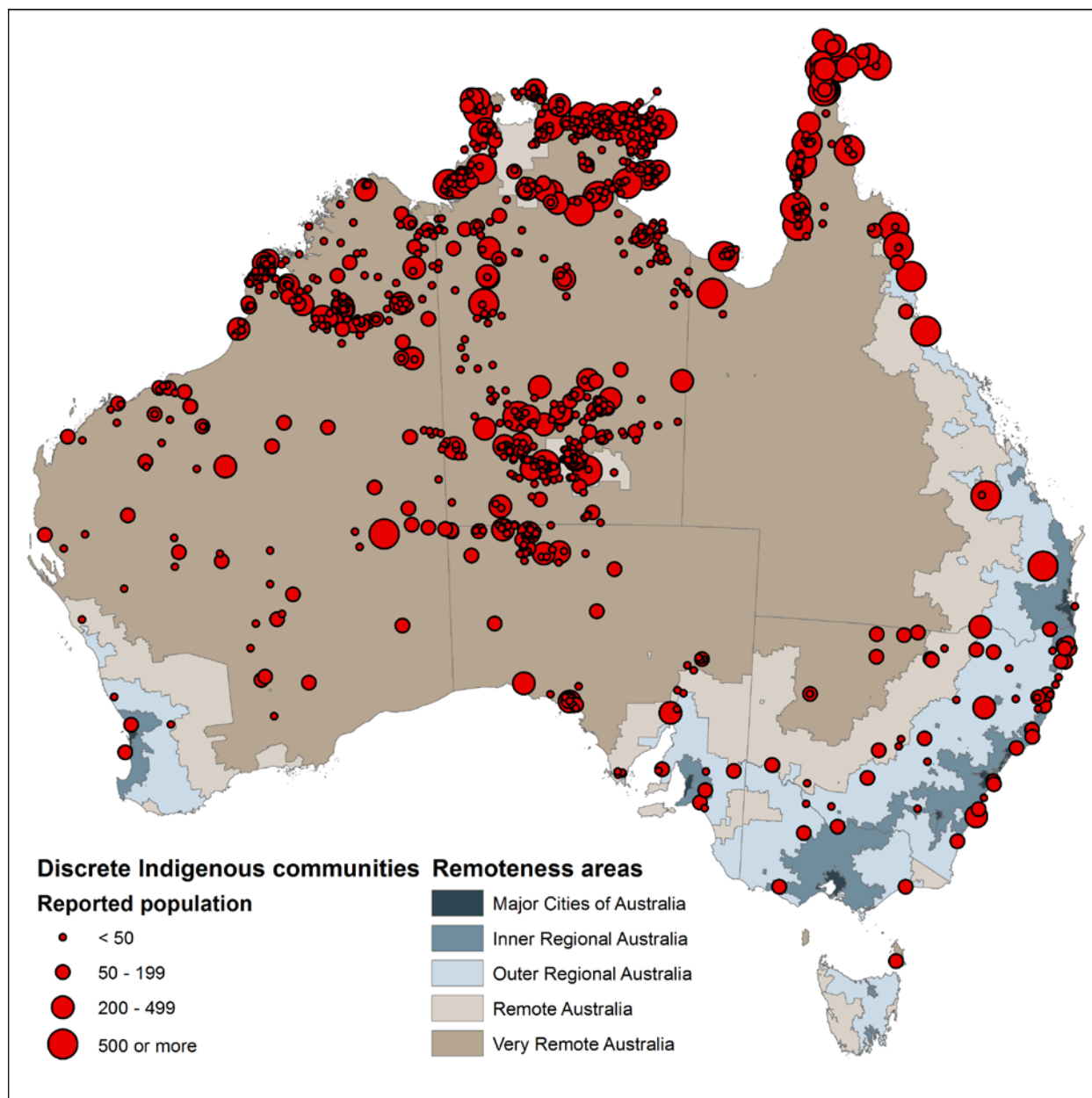
Source: Authors' map from the Community Infrastructure Needs Survey (2006) and the Australian Statistical Geography Standard (2011).

It should be noted that the 'Indigenous population' refers to the aggregation of individuals who identify or are identified by another member of their household as being 'of Aboriginal and/or Torres Strait Islander origin' in the quinquennial census. This is a conceptually distinct group from those meeting the tripartite federal 'working definition' of Indigenous status, which states that an 'Aboriginal or Torres Strait Islander is a person of Aboriginal or Torres Strait Islander descent (ancestry) who identifies as an Aboriginal or Torres Strait Islander and is accepted as such by the community in which he (she) lives'.[3] This official definition is usually only deployed when seeking to determine eligibility for Indigenous-specific programs. Neither of these definitions are

---

[3] J. Gardiner-Garden, 2003, *Defining Aboriginality in Australia* (Current Issues Brief No. 2002–03), Parliamentary Library, Canberra. Archived at https://perma.cc/HZL3-Z4DK

necessarily accepted by many in the Indigenous population.[4] The term 'Indigenous' is used in an international rights context. It is contentious in Australia, with many people preferring to be referred to by a local or regional name specific to an Indigenous ethno-linguistic group, or by the collective terms 'First Nations' or 'First Peoples'. In this overview we use the term 'Indigenous' to reflect international usage including by the Organisation for Economic Co-operation and Development (OECD). No reliable statistics exist which differentiate between different Indigenous ethno-linguistic groups, with the exception of Torres Strait Islanders.

Demographic, governance and policy overview

Demography

Indigenous people in Australia form only a relatively small part of the total population. From a demographic perspective, the Indigenous population has several distinctive characteristics. First, its size and composition can only be estimated approximately with a low degree of confidence. Because estimates of the Indigenous population are based on self-identification or identification by a household member of 'Aboriginal and/or Torres Strait Islander origin', the Indigenous population construct is produced through the interplay of an array of political, administrative and cultural factors.[5] Consequently, official estimates of the Indigenous population are likely to be underestimates of the entire group of people who have any Indigenous ancestry. Nevertheless, 649 171 people were identified as Indigenous in the 2016 Census (2.8% of all census records), with adjustments for survey-based estimates of those missed in the enumeration process bringing the official population estimate up to 798 000 (3.3% of the Australian population).[6]

Second, the Indigenous population is relatively young (see Fig. 2). The median age of Indigenous Australians is 23.0 years, compared to 37.8 years for the non-Indigenous population. While this is partly a result of historical demography, three factors combine to slow Indigenous population aging. Relatively high Indigenous mortality rates contribute to the population's relative youth, with Indigenous life expectancy at birth being 71.6 years for males and 75.6 years for females (this compares to 80.2 years and 83.4 years for non-Indigenous males and females respectively). More important to population increase are Indigenous fertility rates. The total fertility rate of Indigenous women is 2.1 babies per woman, compared to 1.8 for non-Indigenous women. This is not the full picture, however, as the children of Indigenous fathers and non-Indigenous mothers are also of Indigenous origin, increasing the Indigenous birth rate by a further 41% according to birth registry data.[7]

[4] See, for example, M. Dodson, 2003, 'The End in the Beginning: Re(de)finding Aboriginality' in M. Grossman (ed.), *Blacklines: Contemporary Critical Writing by Indigenous Australians*, Melbourne University Press, Carlton, pp. 25–42; or B. Carlson, 2016, *The Politics of Identity: Who Counts as Aboriginal Today?* Aboriginal Studies Press, Canberra.

[5] T. Rowse, 2006, 'Towards a history of Indigenous statistics in Australia', in B. Hunter (ed.), *Assessing the Evidence on Indigenous Socioeconomic Outcomes: A Focus on the 2002 NATSISS* (CAEPR Research Monograph No. 26), ANU Press, Canberra, pp. 1–10.

[6] F. Markham and N. Biddle, 2018, 'Recent changes to the Indigenous population geography of Australia: Evidence from the 2016 Census', *Australian Population Studies*, 2(1), pp. 1–13.

[7] Australian Bureau of Statistics, 2017, *Births, Australia, 2016* (Cat. No. 3301.0), Australian Bureau of Statistics, Canberra.

Fig. 2.   **Population pyramids for the Indigenous and non-Indigenous populations of Australia, 2016**

Third, estimates of the Indigenous population are increasing very rapidly. In 1971, the Indigenous population was estimated to be 150 000, far fewer than the estimate of 800 000 today.[8] This implies an annual compound growth rate of 3.75%, far beyond the bounds of natural increase. Rapid increase is likely to continue, with the population projected to reach between 1.2 million and 1.6 million by 2041.[9] While changing census enumeration practices are partly responsible for this rapid increase, longitudinal data suggests that in recent years a considerable proportion of population growth is the result of the changing propensity of people to identify themselves as Indigenous in the census.[10] This is perhaps unsurprising, as there are good social and historical reasons why many people are only now willing to identify as Indigenous in the Census. However, identification change in the census should always be considered when analysing changes in social indicators over time, because identification change in the census can – and does – give the appearance that socioeconomic outcomes are improving for Indigenous people when this may not be the case.

Fourth, the Indigenous population is much more likely than the non-Indigenous population to live in what the Australian Bureau of Statistics term 'Remote' and 'Very Remote' parts of Australia (see Fig. 1). Remoteness, in this classification, is based on relative distance to large population centres. However, only a minority of Indigenous people live in remote Australia (18.7% in 2016). This population, while growing in absolute terms, is shrinking as a proportion of the Indigenous population, as Indigenous population increase is greater in urban areas due to higher rates of partnering with non-Indigenous people and statistical identification change in non-remote locations. By 2041, the remote Indigenous population is projected to increase by around 35 000 persons, but fall to between 11.7% and 14.8% of the total Indigenous population.[11]

On a range of Western socioeconomic and health indicators, Indigenous Australians are much more disadvantaged than the non-Indigenous population. An internationally recognised measure of advantage and

---

[8] F. Markham and N. Biddle, 2018, 'Recent changes to the Indigenous population geography of Australia', *op cit*.
[9] Unpublished manuscript. F. Markham and N. Biddle, 2018, *Preliminary Indigenous population projections, 2016–2041*, Centre for Aboriginal Economic Policy Research, ANU, Canberra.
[10] N. Biddle and F. Markham, 2018, *Indigenous identification change between 2011 and 2016: Evidence from the Australian Census Longitudinal Dataset* (CAEPR Topical Issue No. 1/2018), Centre for Aboriginal Economic Policy Research, ANU, Canberra, p. 16.
[11] F. Markham and N. Biddle, 2018, *Preliminary Indigenous population projections, op cit.*

disadvantage such as the Human Development Index (HDI) is useful for placing Indigenous disadvantage in context. When last calculated using 2006 data, Indigenous Australians would have been placed 105th out of 177 countries, between the Occupied Palestinian Territories and Fiji, while the total Australian ranking was 3rd from 177.[12]

A stark geographical gradient exists in Indigenous socioeconomic circumstances. For example, Indigenous life expectancy at birth is significantly lower for both Indigenous males and females in remote areas (65.9 and 69.6 years respectively) compared to those in the rest of the country (72.1 and 76.5 years respectively). Indigenous median incomes are highest in Major Cities at $647 per week in 2016, and decline dramatically as remoteness increases, falling to just $389 per week in Very Remote areas.[13] Employment rates and educational attainment follow similar geographical gradients. The decline in socioeconomic outcomes with remoteness has been shown repeatedly in analyses of census data since 1971, with geographic proximity to non-Indigenous Australians producing a greater similarity in socioeconomic outcomes.[14]

Furthermore, these geographical differences in socioeconomic outcomes between remote and non-remote Indigenous populations appear to be increasing. For example, poverty rates in remote Australia increased between 2011 and 2016, but fell in urban and regional areas (see Fig. 3). Similar dynamics were evident for median Indigenous equivalised household incomes, which rose by $56 per week in Major Cities but fell by $12 per week in Very Remote Australia.[15] Similarly, over the same period, Indigenous employment-to-population ratios increased in urban and regional areas but fell in remote Australia.[16]

---

[12] M. Yap and N. Biddle, 2010, 'Gender gaps in Indigenous socioeconomic outcomes: Australian regional comparisons and international possibilities', *The International Indigenous Policy Journal*, 1(2), 27pp.

[13] F. Markham and N. Biddle, 2018, *Income, poverty and inequality* (2016 Census Paper No. 2), Centre for Aboriginal Economic Policy Research, ANU, Canberra.

[14] J.C. Altman and N. Biddle, 2014, 'Refiguring Indigenous economies: A 21st-century perspective', in S. Ville and G. Withers (eds.), *The Cambridge Economic History of Australia*, Cambridge University Press, Melbourne, pp. 530–554.

[15] F. Markham and N. Biddle, 2018, *Income, poverty and inequality*, *op cit*.

[16] D. Venn and N. Biddle, 2018, *Employment outcomes* (2016 Census Paper No. 5), Centre for Aboriginal Economic Policy Research, ANU, Canberra, p. 30.

Fig. 3. **Changes in Indigenous poverty rates, 2006, 2011 and 2016, disaggregated by geographical remoteness** (poverty is measured as 40% of the median equivalised disposable household income before housing)
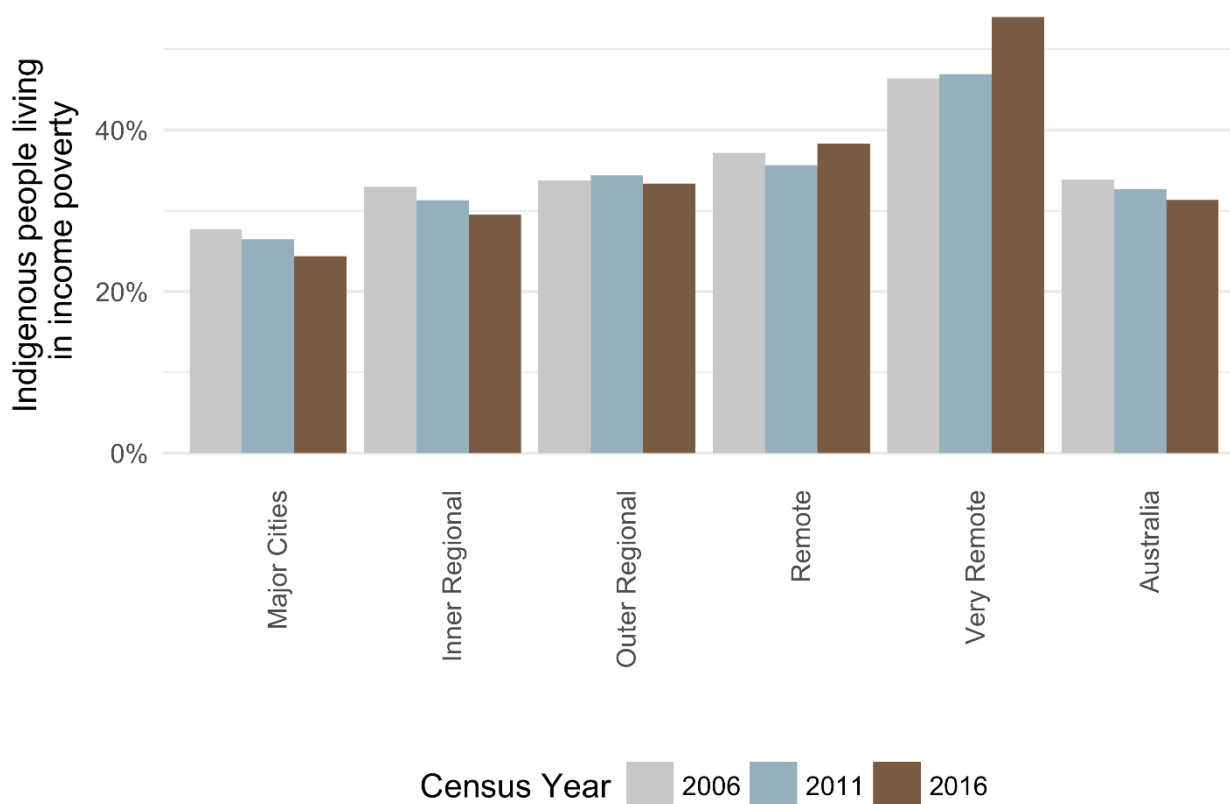
There are two important nuances to this simplified geographical story. First, there is considerable geographical diversity in Indigenous outcomes within remoteness categories. While remote areas tend to have worse outcomes on average, there is no deterministic relationship between remoteness and socioeconomic disadvantage.[17] In addition, a number of urban regions have highly disadvantaged Indigenous populations, for example in Western Sydney. The second nuance is a corollary of the first. Because over 80% of Indigenous people do not live in remote areas, the *number* (not proportion) of Indigenous people living in disadvantaged circumstances (for example, cash poverty) is highest in urban and regional areas.

Governance

Governance of and for Indigenous peoples is multi-layered and complex. Indigenous peoples are poorly represented in all branches of Australian government. Australia has a federal system of government, consisting of Commonwealth (national), state and territory, and local tiers. Within the Commonwealth parliament, there is no electoral division in which Indigenous people form a majority of eligible voters. Nor is there an Australian state or territory where Indigenous people form an electoral majority, although remote Indigenous people wield a degree of electoral power in the Legislative Assembly of the Northern Territory.[18]

---

[17] N. Biddle and F. Markham, 2017, 'Area Level Socioecononomic Outcomes for Aboriginal and Torres Strait Islander Australians, 2016', TTPI, 22 December, https://perma.cc/2JZA-K27J
[18] W. Sanders, 2012, 'Winning Aboriginal votes: Reflections on the 2012 Northern Territory election', *Australian Journal of Political Science*, 47(4), pp. 691–701.

There are no national Indigenous representative bodies that have any legislative powers. An elected national Indigenous representative body (the Aboriginal and Torres Strait Islander Commission or ATSIC) was established in 1990. This body had both representative and executive duties, but lacked the ability to legislate for Indigenous peoples. ATSIC was abolished by the Australian government in 2005. The National Congress of Australia's First Peoples, a membership-based organisation that advocates on Indigenous policy issues, was established in 2010 with Commonwealth funding. It was effectively defunded under the current Indigenous Advancement Strategy in 2014, but continues to advocate and has a membership of over 9000 individuals and 180 organisations. Due to the relative absence of Indigenous control of a legislature, this section mostly discusses the governance arrangements relating to Indigenous service delivery, and more localised forms of agreement making between Indigenous peoples and settler-colonial interests.

Services are provided by Commonwealth, state/territory and local governments as well as a range of institutions often comprising incorporated organisations with diverse objectives (of which there are several thousand) and including Indigenous-controlled non-government organisations and statutory bodies ('Indigenous organisations'). Indigenous organisations operate in almost every part of the public sector, and include land councils (established under land rights legislation) as well as native title representative bodies and prescribed bodies corporate (that are established under native title legislation and are the legal holders of native title rights and interests).[19]

It is at the so-called 'third tier' of electoral government – municipal or local government – where Indigenous people have most formal governmental influence, local control that is both limited in its powers and that has been weakened by the amalgamation of adjoining local government jurisdictions in several states and territories.[20] In addition to providing municipal services, Indigenous local governments have often been involved in the provision of services on behalf of other levels of government, especially in the areas of housing and community development. The diversity of Indigenous organisations, with various municipal and other functions, makes it difficult to neatly catalogue the roles, responsibilities, scope and number of these organisations. This is compounded by conflicting trends towards centralisation and devolution in different jurisdictions.

In the Northern Territory, for example, 51 Indigenous community government councils were amalgamated into eight regional shire councils in 2008. This removed control of service delivery from Indigenous organisations, and in some instances led to the contracting out of service delivery to outside contractors. Some shires have established local boards including representatives from Indigenous communities, however, they have no decision-making authority or financial delegation.[21] At around the same time as these amalgamations, the Australian Government began dismantling the Community Development Employment Projects (CDEP) scheme that operated across remote Australia and funded hundreds of small Indigenous community organisations to deliver a range of projects, often including municipal services.[22]

Queensland presents a second model, in which 16 Indigenous councils function as discrete local governments, with responsibilities for delivering municipal services, economic planning, and maintaining economic and essential services infrastructure.[23] Also in Queensland, the Torres Strait Regional Authority (TSRA) survives as the vestige of an ATSIC Regional Council, with functions including the formulation, implementation and

---

[19] Some organisations, like the Northern Land Council and Central Land Council in the Northern Territory, are land councils and native title representative bodies.
[20] W. Sanders, 2013, 'Losing localism, constraining councillors: Why the Northern Territory supershires are struggling', *Policy Studies*, 34(4), pp. 474–490.
[21] M. Limerick, R. Morris, and M. Sutton, 2012, *Local Government Service Delivery to Remote Indigenous Communities: Review of Service Delivery Models and Approaches in Various Jurisdictions*, Report for the Australian Centre of Excellence for Local Government, p. 19.
[22] K. Jordan, (ed.), 2016, *Better Than Welfare? Work and Livelihoods for Indigenous Australians After CDEP* (CAEPR Research Monograph No. 36), ANU Press, Canberra.
[23] For more detail see Queensland Productivity Commission, 2017, *Final Report: Service Delivery in Remote and Discrete Aboriginal and Torres Strait Islander Communities*, QPC, Brisbane, p. 22; and Limerick et al., *op cit.*, p. 39.

evaluation of programs for Indigenous peoples in the region.[24] In Western Australia, the Shire of Ngaanyatjarraku is the only local government entity that is almost entirely Indigenous, servicing very remote Indigenous communities in the goldfields and central desert. Apart from the closure of CDEP, the range of services it delivers has increased over time.[25] In New South Wales (NSW), the Murdi Paaki Regional Assembly is a regional representative institution that grew out of Indigenous community aspirations for self-determination. It advocates across policy areas including economic development, and in 2015 signed an accord with the NSW Government under that government's Local Decision Making (LDM) initiative. Five LDM accords have now been signed across the state, with the ultimate aim of devolving decision-making for service delivery to regional Aboriginal alliances (the LDMs are discussed in more detail later in this paper). Nationally, Empowered Communities is an 'opt-in' model for place-based development in partnership with governments and corporate Australia, with eight regions having signed on.[26]

This diversity of governance arrangements sees a plethora of programs, some mainstream and some Indigenous specific, that provide for services to be delivered across a range of functional areas including health and related services, housing and infrastructure, education and training, employment and business development, as well as legal services and land and resource use and management. There are some unique Indigenous-specific redistributive organisations such as Indigenous Business Australia (IBA) and the Indigenous Land and Sea Corporation (ILSC), which assist Indigenous people to purchase homes, develop businesses or acquire and manage land.

Mainstream programs and services (i.e. those that are not Indigenous-specific) constitute around 82% of government expenditure on Indigenous peoples,[27] and are particularly important in urban and regional areas where there is a higher Indigenous population but proportionally fewer Indigenous-specific programs. However, Indigenous specific services are more important in some policy domains (for example, early childhood education), and Indigenous organisations also play other roles in building Indigenous social and political efficacy.[28]

The diversity and sheer number of institutional actors that feature in these governance arrangements cannot be readily mapped. Nonetheless a descriptive account identifies a number of key issues. The first set of these relate broadly to administration. These include longstanding problems with a lack of coordination in policy design and program delivery, lack of robust evaluation of policies and programs, and potential for duplication and/or cost shifting inherent in such complex arrangements. A 2010 Strategic Review of Indigenous Expenditure ('Strategic Review') identified that at the Commonwealth level there were 232 Indigenous-specific programs or mainstream programs with provisions specific to Indigenous peoples. It argued that there was undue complexity, with too many Indigenous-specific programs across Commonwealth portfolios, too little rigorous evaluation of effectiveness and too little coordination within and across Commonwealth agencies and with the states and territories. It recommended the consolidation of the Commonwealth's Indigenous programs and the transfer of some programs to state and territory governments. It also recommended that policies and programs

---

[24] TSRA, 2018, *Torres Strait Regional Authority Annual Report 2017–2018*, TSRA, Thursday Island, p.80.
[25] Limerick et al*., op. cit.*, p. 34.
[26] Empowered Communities, 2015, *Empowered Communities, Empowered Peoples: Design report*, Wunan Foundation: Kununurra, WA.
[27] This figure may appear misleadingly high, as some of the 'services' considered (such as the 'Indigenous' consumption of national defence spending) are not ordinarily considered service delivery. SCRGSP (Steering Committee for the Review of Government Service Provision), 2017, *2017 Indigenous Expenditure Report*, Productivity Commission, Canberra, p. xii.
[28] See, for example, S. Garling, J. Hunt, D. Smith and W. Sanders (eds.), 2008, *Contested Governance: Culture, Power and Institutions in Indigenous Australia*, ANU Press, Canberra; D. Howard 2018, 'Moving from transactional government to enablement" in Indigenous service delivery: The era of New Public Management, service innovation and urban Aboriginal community development', *Australian Journal of Social Issues*, 53(3), pp. 262–282; T. Rowse, 2005, 'The indigenous sector', in *Culture, Economy and Governance in Aboriginal Australia*, University of Sydney Press, Sydney, pp. 207–223; P. Sullivan, 2010, *The Aboriginal community sector and the effective delivery of services: Acknowledging the role of Indigenous sector organisations* (DKCRC Working Paper No. 73), Desert Knowledge CRC, Alice Springs.

be based on a long-term investment approach rather than short-term contracts. Overall, the review concluded that past approaches to 'remedying Indigenous disadvantage' had clearly failed.'[29]

After an attempt to consolidate Commonwealth programs under the 2014 Indigenous Advancement Strategy, a 2016 study found that 49 Indigenous-specific programs remained at the Commonwealth level (now largely within the Department of the Prime Minister and Cabinet (PM&C)), in addition to 236 state and territory programs and 797 programs delivered by non-government organisations (many of them funded in full or in part by governments).[30]

In recognition of complex federal-state relations a series of National Partnership Agreements were made under the COAG (Council of Australian Governments) National Indigenous Reform Agreement (NIRA) in 2009. These were to direct 'complementary investment and effort' from the Commonwealth and state and territory governments towards 'Closing the Gap' on Indigenous disadvantage.[31] The agreements covered a range of areas including economic participation, remote service delivery, early childhood development, housing and health. While positive outcomes were achieved, reviews of some of the agreements noted governance challenges similar to those identified in the 2010 Strategic Review, including complexities in Commonwealth-state relations and short planning cycles.[32] The National Partnership Agreements have now expired, although the National Indigenous Reform Agreement was re-endorsed by COAG in July 2018 and a 'refreshed' set of targets is expected to be announced in the coming months.[33]

There is no easy way to outline the roles and responsibilities held by Commonwealth, state, territory and local government jurisdictions as they relate to Indigenous service delivery. Some policy areas – such as health and education – have particularly complex multi-jurisdictional arrangements, but service delivery is so multifaceted that mapping is perhaps most useful at the community level. In its recent inquiry into service delivery to remote Indigenous communities in Queensland, the Queensland Productivity Commission attempted to represent this complexity with the following diagram (Fig. 4) for an indicative community within its jurisdiction.

---

[29] Australian Government Department of Finance and Deregulation, 2010, *Strategic Review of Indigenous Expenditure: Report to the Australian Government*, Commonwealth of Australia, Canberra, p. 11.
[30] The report noted difficulties in obtaining an accurate count. S. Hudson, 2016, *Mapping the Indigenous program and funding maze* (Centre for Independent Studies Research Report 18), CIS, Sydney, p. 2.
[31] COAG, 2009, *National Partnership Agreement on Indigenous Economic Participation*, Council of Australian Governments, p. 3.
[32] For example, Commonwealth of Australia, 2018, *Remote Housing Review: A review of the National Partnership Agreement on Remote Indigenous Housing and the Remote Housing Strategy (2008–2018)*, Commonwealth of Australia, Canberra; Department of Health and Ageing, 2013, *Joint Report on the Review of the National Partnership Agreement on Closing the Gap in Indigenous Health Outcomes*, Commonwealth of Australia, Canberra.
[33] A set of draft revised targets was released in December 2018. See Council of Australian Governments, 2018, 'COAG Statement on the Closing the Gap Refresh', 12 December, https://www.coag.gov.au/sites/default/files/communique/coag-statement-closing-the-gap-refresh.pdf

Fig. 4.   'The bureaucratic maze'
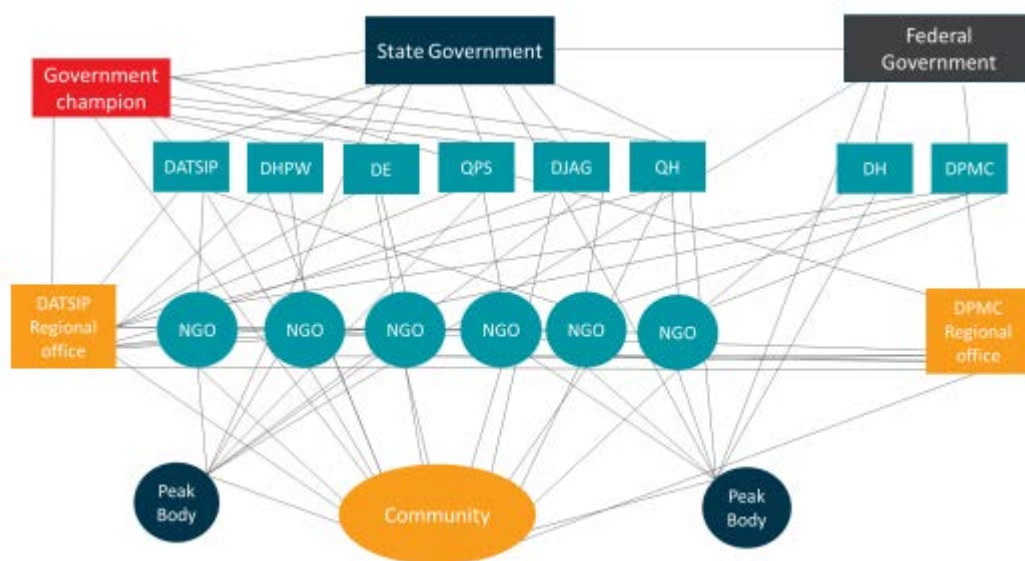
Note: To simplify, the map shows only a subset of the departments, authorities and NGOs involved in service delivery, design and coordination.

Source: Queensland Productivity Commission, 2017, p. xv.

Examining the administration of service provision to Indigenous peoples in Australia also requires reflection on public expenditure, and policy and program evaluation. As discussed later in this paper, the most recent Indigenous Expenditure Report estimates the total annual expenditure on Indigenous Australians to be around $33 billion per year.[34] However, this 'headline' figure takes no account of historical underinvestment in infrastructure and services for Indigenous peoples, and no government in any jurisdiction has transparently quantified the extent of this backlog.

There is no effective high-level monitoring of the adequacy, effectiveness and efficiency of government expenditure on Indigenous peoples.[35] In general, published reviews by the Auditor-General are limited to audits of performance and implementation issues. The Indigenous Advancement Strategy in particular has been heavily criticised including by the Australian National Audit Office (ANAO) which found that the planning, design and implementation of the strategy were too rushed, and that grants administration processes fell short of the required standard.[36] Despite a Commonwealth commitment of $10 million per year for increased use of evaluation in Indigenous affairs,[37] recent program reviews have tended to be contracted to private consultants who have undertaken work of poor quality that makes it difficult to assess the suitability of government policy.

A second set of issues relating to governance of, for, and by Indigenous peoples in Australia is concerned broadly with power-sharing and agreement-making. There are strong calls from many Indigenous peoples not only for changes in program administration, but also for fundamental changes in the governance and development of Indigenous policy to ensure it reflects diverse Indigenous perspectives and priorities. Unlike comparable settler colonies such as Canada, the United States and New Zealand, Australia does not have any negotiated treaty between Indigenous peoples and the settler/invader state.

---

[34] SCRGSP, 2017, *op cit.*

[35] For a recent example, see J. Hunt, 2007, *The Cashless Debit Card Evaluation: A short review* (CAEPR Topical Issue No. 1/2017), Centre for Aboriginal Economic Policy Research, ANU, Canberra.

[36] ANAO, 2017, *Indigenous Advancement Strategy* (ANAO Report No. 35 2016–17), Commonwealth of Australia, Canberra.

[37] N. Scullion, 2017, '$10m a year to strengthen IAS evaluation', Commonwealth of Australia, Canberra. https://perma.cc/DKF9-D8FQ

Most recently, calls for recognition of Indigenous rights to influence policy-making at the national level have centred on two documents produced by Indigenous peoples – the Redfern Statement[38] and the Uluru Statement from the Heart (the 'Uluru Statement').[39] Both documents advocate for strong steps towards Indigenous self-determination. The Redfern Statement asks the Australian government to commit to resourcing Aboriginal and Torres Strait Islander led policy solutions (for example by restoring the $540 million funding arbitrarily cut from the Indigenous affairs portfolio in 2014), establishing a discrete Department of Aboriginal and Torres Strait Islander Affairs to be managed and run by senior Indigenous public servants, and pursuing agreement-making in consultation with Indigenous peoples. The Uluru Statement calls for a constitutionally-enshrined Indigenous 'Voice' to parliament, as well as a Makarrata [Peace-making] Commission to supervise a process of agreement-making between governments and Indigenous peoples and truth-telling about violent settler colonial history. The Australian government's response to these proposals has been minimalist. The Uluru Statement has been rejected by the government on the grounds that it is neither 'desirable' nor 'capable of winning acceptance in a referendum.'[40]

However, several state and territory governments have signalled an intent to open dialogues on establishing treaties with Indigenous peoples in those jurisdictions (Victoria, the Northern Territory, Western Australia and South Australia until there was a change of government in 2018). Victorian legislation, passed in June 2018, is the first in Australia to state a formal intent to negotiate a treaty or treaties with Indigenous peoples.

Some forms of agreement-making are already well established. For example, Indigenous Land Use Agreement (ILUA) provisions under the *Native Title Amendment Act 1998* (The '10 Point Plan') provide a set of mechanisms for voluntary agreement-making between Indigenous peoples (as traditional owners of land), governments, resource developers and other stakeholders in relation to native title matters and land-use concerns.[41] ILUAs can be made irrespective of whether there is a native title claim over an area and may include, for example, negotiated settlements over access to lands and waters, extinguishment of native title, compensation, agreements about the co-existence of native title and other rights, and agreements between native title holders and others about future land and resource development. Once registered, ILUAs are binding on all parties.[42] There have been over 1200 ILUAs made since 1999,[43] although their impacts for Indigenous peoples are mixed. Differences in legal frameworks and the relative strength and unity of Indigenous groups mean that some Indigenous groups have received substantial economic and other benefits from agreement-making while others have faced net costs.[44] Similar agreement-making been Indigenous peoples and others has been facilitated by Land Councils in the Northern Territory, NSW, Victoria, and Tasmania.

---

[38] National Congress of Australia's First Peoples, 2016, 'Redfern Statement', National Congress of Australia's First Peoples.

[39] Referendum Council, 2017, *Final Report of the Referendum Council*, Commonwealth of Australia, Canberra.

[40] M. Turnbull, G. Brandis and N. Scullion, 2017, Media Release, 'Response to the Referendum Council's report on Constitutional Recognition', 26 October.

[41] D.E. Smith*, Indigenous land use agreements: The opportunities, challenges and policy implications of the amended Native Title Act* (CAEPR Discussion Paper No.163), Centre for Aboriginal Economic Policy Research, ANU, Canberra.

[42] ILUAs are also binding on all persons holding native title to the area even if they are not parties to the agreement, they oppose the agreement, or are unaware of it. In 2017 the Federal Court determined, for the first time, that ILUAs could only be registered if all of the registered claimants signed them. The Australian government then legislated the *Native Title Amendment (Indigenous Land Use Agreements) Act 2017* to reverse the effect of the Federal Court decision and confirm the registration of earlier agreements that had been made without signatures of every registered native title claimant to the area. See National Native Title Tribunal, no date, Indigenous Land Use Agreements, *http://www.nntt.gov.au/ILUAs/Pages/default.aspx*; J.C. Altman, 2017, Submission to the Senate Legal and Constitutional Affairs Committee inquiry into the Native Title Amendment (Indigenous Land Use Agreements) Bill 2017.

[43] Register of Indigenous Land Use Agreements, *http://www.nntt.gov.au/searchRegApps/NativeTitleRegisters/Pages/Search-Register-of-Indigenous-Land-Use-Agreements.aspx*

[44] C. O'Faircheallaigh, 2004, 'Evaluating agreements between Indigenous peoples and resource developers', in M. Langton, L. Palmer, M. Tehan and K. Shain (eds.), *Honour Among Nations?: Treaties and Agreements with Indigenous People*, Melbourne University Press, Carlton, pp. 303–328; C. O'Faircheallaigh, 2006, 'Aborigines, mining companies and the state in contemporary Australia: A new political economy or "business as usual"?', *Australian Journal of Political Science*, 41(1), pp. 1–22.

Policy

The overarching policy framework for Indigenous affairs during the last decade has been 'Closing the Gap on Indigenous disadvantage.' This set targets for federal, state and territory governments to:

- halve the gap in child mortality between Indigenous peoples and other Australians by 2018
- have 95% of all Indigenous four-year-olds enrolled in early childhood education by 2025
- close the gap in school attendance between 2014 and 2018
- halve the gap in reading and numeracy by 2018
- halve the gap in Year 12 attainment by 2020
- halve the gap in employment rates by 2018
- close the gap in life expectancy by 2031.

According to the Australian government, by 2018 three of these seven targets were on track to be met: child mortality, early childhood education and Year 12 attainment.[45] This assessment may be overly optimistic, insofar as the ambition of one of these three 'on track' targets was revised downwards (early childhood education) and another of the three 'on track' targets is problematic in terms of its measurement (childhood mortality rate).[46] The inability of governments to meet their own policy targets has become emblematic of the protracted failure of governments in Indigenous policy making.

The Closing the Gap framework has been criticised for perpetuating a 'mainstreaming' approach in Indigenous policy that firmly took hold from the late 1990s (for a further discussion of this approach see below). From this perspective it can be seen as a normative paradigm that has focused on a limited range of socioeconomic indicators defined by the settler state, in effect drawing resources away from a more rights-based political agenda that challenges entrenched structural inequalities and seeks to re-centre Indigenous peoples in political decision-making.[47]

The Australian Government is currently undertaking a review of the Closing the Gap framework, with a draft set of revised targets released in December 2018. The National Congress of Australia's First Peoples (Congress) called for additional targets to address family violence (with a focus on women and children); incarceration and access to justice; child safety and wellbeing; the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care; rates of Aboriginal and Torres Strait Islander homelessness and overcrowded housing; and Aboriginal and Torres Strait Islander access to disability services.[48] Congress also recommended that the government work with the Redfern Statement Alliance Leadership Group to negotiate governance mechanisms and relationships with Indigenous peoples and organisations going forward.

After a process of receiving and considering public submissions and what one Aboriginal leader has referred to as 'ostensible consultations',[49] COAG has released a draft set of new state-led and Commonwealth-led targets

---

[45] PM&C, 2018, *Closing the Gap: Prime Minister's Report 2018*, Commonwealth of Australia, Canberra.

[46] See J.C. Altman, 2018, 'How the Gap widened, and how to "refresh" the policy approach for remote Indigenous Australia', *New Matilda*, 26 March, *https://newmatilda.com/2018/03/26/gap-widened-refresh-policy-approach-remote-indigenous-australia/*

[47] For example J.C. Altman, 2009, *Beyond closing the gap: Valuing diversity in Indigenous Australia* (CAEPR Working Paper No. 54), Centre for Aboriginal Economic Policy Research, ANU, Canberra; K. Jordan, H. Bulloch and G. Buchanan, 2010, 'Statistical equality and cultural difference in Indigenous wellbeing frameworks: A new expression of an enduring debate', *Australian Journal of Social Issues*, 45(3), pp. 333–362; L. Pearson, 2018, 'The language of blame, responsibility and accountability', *Indigenous X*, 1 April, *https://indigenousx.com.au/the-language-of-blame-responsibility-and-accountability/#.W8kFM1VLiUk*; K. Pholi, D. Black and C. Richards, 2009, 'Is 'Close the Gap' a useful approach to improving the health and wellbeing of Indigenous Australians?', *Australian Review of Public Affairs*, 9(2), pp. 1–13; M. Walter and C. Andersen, 2013, *Indigenous Statistics: A Quantitative Research Methodology*, Left Coast Press, Walnut Creek CA.

[48] National Congress of Australia's First Peoples, 2016, 'Redfern Statement', National Congress of Australia's First Peoples; National Congress of Australia's First Peoples, 2018, 'Submission on the Closing the Gap Refresh Strategy Discussion Paper', National Congress of Australia's First Peoples.

[49] P. Turner, 2018, 'Closing the Gap Refresh', *Indigenous X*, 22 November, *https://indigenousx.com.au/closing-the-gap-refresh/*

---

in education, employment, housing, representation in the criminal justice system, and access to, management and ownership of land. The latter target will be further refined in 2019.[50]

The Closing the Gap framework has recognised 'governance and leadership' as a strategic 'building block' for supporting improved outcomes, but the focus to date has been on governance and leadership within Indigenous communities and organisations rather than the 'governance of governments.' There has been some concern that governments' approaches to governance of Indigenous organisations have been focused too heavily on contract management and compliance rather than facilitation. The 2010 Strategic Review of Indigenous Expenditure found that reforms to alleviate the complexity of Commonwealth Indigenous programs may be 'for little gain' if the Commonwealth's contractual practices were not simplified. It suggested that contract management was too focused on 'risk aversion' rather than 'risk management', often manifesting in 'overly cautious, excessive, and, at times, stifling monitoring regimes with Indigenous communities and organisations.' It suggested that Indigenous communities would be better served by an operational paradigm of 'enabling communities' rather than 'rigid compliance'.[51]

Similar themes are evident at the state and territory level, although there have been some recent moves towards approaches that are intended to be more enabling. For example, the NSW Government's Aboriginal Affairs Strategy – the *OCHRE Plan* – seeks to put Indigenous people 'at the heart of decision making' through a staged process of power-sharing. A Local Decision Making model is currently being trialled in several regions. This is intended to support capacity-building in Indigenous non-government organisations while progressively delegating 'greater powers and budgetary control' over service delivery to local Aboriginal management committees 'once capacity is proven.'[52]

Historical overview

Pre-20th Century

Many Aboriginal peoples say they have been in Australia since the land was created. Contemporary western scientific evidence currently suggests that mainland Australia was first settled by Aboriginal peoples approximately 65 000 years ago,[53] with Torres Strait Islanders first living and hunting in the islands to the north soon after the islands formed around 7000 years ago.[54] The period prior to colonisation in 1788 has long been understood to be a period of hunter-gatherer sustainable living. However, an emerging historiography speculates that at least some Aboriginal peoples may have developed forms of agricultural and aquacultural systems including sowing plant species and the storing of grains, although such debates turn on the definition of boundaries between agriculture and hunter-gatherer modes of production.[55] It is impossible to now know the precolonial population of mainland Australia with any degree of precision, but it has been estimated at between 250 000 and around one million people.[56]

The colonisation process involved frontier violence and dispossession, including organised state-sponsored campaigns under a series of colonial regimes. Although there were some accommodations and

---

[50] COAG, 2018, 'COAG Statement on the Closing the Gap Refresh', 12 December,
https://www.coag.gov.au/sites/default/files/communique/coag-statement-closing-the-gap-refresh.pdf
[51] Australian Government Department of Finance and Deregulation, 2010, *Strategic Review of Indigenous Expenditure: Report to the Australian Government*, Commonwealth of Australia, Canberra, p. 305.
[52] Aboriginal Affairs NSW, 2013, *OCHRE. NSW Government Plan for Aboriginal Affairs: Education, Employment & Accountability*, Aboriginal Affairs NSW, Sydney, pp. 7, 23.
[53] C. Clarkson, Z. Jacobs, et al., 2017, 'Human occupation of northern Australia by 65 000 years ago', *Nature,* 547, pp. 306–310.
[54] J. Matthews, 2016, '7000 Years of Human Settlement in the Western Torres Strait', Australian Archaeological Association blog,
13 January, https://www.australianarchaeologicalassociation.com.au/7000-years-of-settlement/
[55] B. Pascoe, 2014, *Dark Emu, Black Seeds: Agriculture or Accident?* Magabala Books, Broome.
[56] Estimates vary but see, for example, B. Hunter, 2014, 'The Aboriginal legacy', in S. Ville and G. Withers (eds.), *The Cambridge Economic History of Australia*, Cambridge University Press, Cambridge, p. 80.

interdependencies,[57] the effects of colonisation on the economies of Indigenous peoples were profound and ongoing. By the time of the federation of Australia in 1901 the Indigenous population had likely declined to around 100 000.[58] Agricultural and acquacultural systems had been destroyed, and successive generations had been alienated from economic resources and the capacity for self-provisioning.[59] At the same time, the acquisition of land had rapidly increased the wealth and power of settler colonists and, consequently, their control over Aboriginal peoples' lives. Early colonial domination was compounded by subsequent policies.

Protection and assimilation

Indigenous peoples were variously subjected to policies of 'protection' and preservation and then 'assimilation', depending in part on residential location and 'racial' categorisation (with some Aboriginal people usually of mixed descent being allocated full citizenship status). Protection laws, first enacted under the various colonies before Australian federation, stressed that the executive government had a duty to protect Indigenous peoples, who it believed were dying out. Reserves and Christian missions for Indigenous peoples were established from the early 1800s, and the colonies employed Aboriginal 'Protectors' or Protection Boards – ostensibly to provide protection but with total control over Indigenous peoples' lives and, in many cases, legal guardianship over the children.[60] This system eventually allowed for the removal of many Indigenous children from their families and their placement into 'training' institutions where they were systematically denied access to kin and culture – these people have come to be known as the Stolen Generations.[61]

At federation the Australian constitution made exclusionary references to Aboriginal people, effectively leaving their welfare in the hands of the state and territory governments. The population of Indigenous people of mixed descent was increasing, and there was a new policy imperative for mixed descent people to move off government rations and join the workforce. Governments believed that the mixed descent population could 'merge' with the non-Indigenous majority.[62] Various state and territory Protectors and Protection Boards had authority to indenture wards to jobs off the reserves such as in domestic work. Many people forced into these employment relationships were further disadvantaged through the withholding of wages and allowances that were held in trust by state officials but, in many cases, never distributed to the workers.[63] Indigenous peoples were also working in the pastoral industry, where station managers often paid low or no wages.[64]

From the late 1930s the policy focus on 'merging' became a more active policy of 'assimilation.' This would ostensibly involve improving the socioeconomic condition of Indigenous peoples so they could 'take their place economically and socially in the community' – in theory leading to a dissolution of distinct groups.[65] However, approaches to development continued to be discriminatory and excluding. Indigenous peoples continued to be ineligible for social security payments.[66] Following the First World War, returning Indigenous servicemen were excluded from the 'soldier settlement' schemes that granted blocks of land to other returning soldiers.[67] In

---

[57] See for example I. Keen (ed.), 2010, *Indigenous Participation in Australian Economies: Historical and Anthropological Perspectives*, ANU Press, Canberra; N. Fijn, I. Keen, C. Lloyd and M. Pickering (eds.), 2012, *Indigenous Participation in Australian Economies II: Historical Engagements and Current Enterprises*, ANU Press, Canberra.
[58] L.R. Smith, 1980, *The Aboriginal Population of Australia*, ANU Press, Canberra, p. 12.
[59] For example, H. Goodall, 1996, *Invasion to Embassy: Land in Aboriginal Politics in New South Wales, 1770–1972*, Allen & Unwin, Sydney.
[60] Australian Institute of Aboriginal and Torres Strait Islander Studies, 2016, *Remembering the Mission Days: Stories from the Aborigines Inland Missions*. Retrieved from https://aiatsis.gov.au/exhibitions/remembering-mission-days
[61] See R. Wilson (commissioner), 1997, *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, Human Rights and Equal Opportunity Commission, Sydney.
[62] *Ibid.*
[63] In recent decades there have been various state-based schemes designed to assess claims to 'Stolen Wages' and pay Aboriginal people and their descendants the money owed to them, although repayments have been limited. See Senate Standing Committee on Legal and Constitutional Affairs, 2006, *Unfinished Business: Indigenous Stolen Wages*, Commonwealth of Australia, Canberra.
[64] T. Rowse, 2017, *Indigenous and Other Australians Since 1901*, UNSW Press, Sydney.
[65] Bell in R. Wilson (commissioner), 1997, *op cit*.
[66] T. Rowse, 2017, *op cit*.
[67] Australian War Memorial, no date, *Indigenous defence service*. Retrieved from https://www.awm.gov.au/encyclopedia/indigenous/

addition, until at least the mid-1970s the rights of Indigenous people to access loans were severely restricted, including loans to establish businesses or secure mortgages to enter the private housing market.[68] Indigenous people were not only forced to endure many waves of trauma and dispossession, but they were also simultaneously denied an economic base and the capacity to accrue economic resources to pass on to future generations.

Self-determination

Throughout this period Indigenous peoples were also organising a resistance to their oppression and a reassertion of their rights. From 1946 Aboriginal pastoral workers – supported by a number of unions – commenced industrial action to demand higher pay.[69] Twenty years later, a decision was made by the Commonwealth Conciliation and Arbitration Commission in 1966 to award equal wages to male Aboriginal employees of cattle stations in the Northern Territory, but the slow phasing in of this arrangement and deeper concerns about land rights prompted further industrial action. This famously included the 'Wave Hill Walk-off' in which 200 Aboriginal stockmen and their families – led by senior Gurindji men – abandoned the foreign-owned Wave Hill station demanding equal pay and a return of rights to land.[70] Unlike the 1946 action, the impact of this campaign was significant. In 1972 the Australian government announced it would make funds available to purchase properties for Indigenous people, and in 1975 the new Aboriginal Land Fund Commission acquired land that was returned to the Gurindji. At the same time as the Gurindji campaign, the Yolŋu people in northern Australia began major protests to have their exclusive rights to occupy and use the Arnhem Land Aboriginal Reserve recognised. This included a 1968 court action seeking to prevent mining activity occurring in the reserve without any consultation with Yolŋu, or their consent. The reserve had been declared in 1931 ostensibly for the exclusive use of Yolŋu people. Although the Yolŋu lost the 1968 case, their actions and the Gurindji campaign influenced the passing of Australia's first comprehensive land rights legislation, the Commonwealth's *Aboriginal Land Rights Act (Northern Territory) 1976* (ALRA).[71]

Protests and social movements in other parts of the country also gathered momentum from the 1930s, with a series of Indigenous-led and supported organisations advocating for rights (to land and other entitlements), as well as for the repeal of the protections acts and improvements to welfare. This included the Aborigines Progressive Association from the 1930s and Australian-Aboriginal Fellowship and the Federal Council for the Advancement of Aborigines and Torres Strait Islanders (FCAATSI) from the 1950s. The 1960s saw the emergence of more radical student politics including the 1965 Freedom Ride that challenged racial segregation in regional NSW towns.[72] Several legislative developments in this period aligned the rights of Indigenous Australians as denizens (second-class citizens) with the citizenship rights available to non-Indigenous Australians. In 1948 the *Nationality and Citizenship Act* made all people born in Australia after 26 January 1949 – including Indigenous peoples – citizens. While some Indigenous Australians had been allowed to vote in Australian government elections since 1949, from 1962 all Indigenous Australians became eligible to vote at the Commonwealth level. Changes brought in between 1941 and 1959 also allowed most Indigenous peoples to receive social security payments (though still largely excluding those living in remote areas).[73]

The 1967 referendum is often seen as a watershed moment. Over 90% of the Australian voting population agreed to constitutional changes that allowed Indigenous peoples to be fully included in the national census,

---

[68] Whitlam Institute, 2015, *Indigenous Australians*, Whitlam Institute, Sydney.
[69] T. Rowse, 2017, *op cit.*
[70] M. Hokari, 2000, 'From Wattie Creek to Wattie Creek: An oral historical approach to the Gurindji walk-off', *Aboriginal History,* 24, pp. 98–116.
[71] See G. Yunupingu (ed.), 1997, *Our Land Is Our Life: Land Rights – Past, Present and Future*, University of Queensland Press, Brisbane; B. Attwood, 2000, The articulation of 'Land Rights' in Australia: The case of Wave Hill, *Social Analysis: The International Journal of Social and Cultural Practice*, 44(1), pp. 3–39.
[72] G. Foley, 2011, 'A short history of the Australian Indigenous resistance 1950–1990', in A. Cadzow and J. Maynard (eds.), *Nelson Aboriginal Studies*, Cengage Learning, South Melbourne, pp. 114–127.
[73] T. Rowse, 2017, *op cit.*

and gave the Australian government power to make laws for Indigenous peoples. The successful 'Yes' campaign – driven in large part by FCAATSI – hoped that the Australian government would now intervene directly to counter the effects of 'racist state regimes' and create policies and laws to advance the position of Indigenous peoples.[74] Many commentators saw the referendum as forming the basis of a new policy approach of self-determination, 'with land rights as its foundation', and heralding the 'theoretical end of assimilation'.[75] The referendum was indeed followed by a period of policy experimentation in Indigenous affairs, centred particularly on self-determination and self-management (1972–1996). This focussed not only on land rights but also on the need for institutions of Indigenous self-management and economic development. It encouraged local Indigenous control of former missions and reserves, and in some cases a return to traditional lands.[76]

The institutional history at this time is complex, but includes the establishment of several statutory bodies to promote Indigenous economic development – by facilitating Indigenous access to finance, assisting in the accumulation of financial resources, and supporting employment and community development. Key institutions include IBA, designed to invest commercially in projects that benefit Indigenous Australians (established in 1990 as the Aboriginal and Torres Strait Islander Commercial Development Corporation); as well as the ILSC, established as the Indigenous Land Corporation in 1995, with a remit to purchase lands and waters for Indigenous Australians who are unable to claim these back through native title and land rights, and to manage those lands and waters in a manner that will provide economic, environmental, social and cultural benefits to the Indigenous land and sea owners. Additional institutions include the Aboriginals Benefit Account (ABA), a trust that exists to disperse the royalties received from mining activities on Aboriginal land in the Northern Territory (formerly the Aboriginals Benefit Trust Account from 1976 and the Aborigines Benefits Trust Fund from the 1950s), as well as a number of institutions that have not survived (such as the Aboriginal Land Fund Commission 1974–1980; Aboriginal Development Commission 1980–1989; and ATSIC 1990–2005).[77]

Among many important initiatives undertaken by governments at this time to promote Indigenous economic development, perhaps the most significant were the introduction of the CDEP scheme and the Community Housing and Infrastructure Program (CHIP). CDEP (1977–2013) paid block grants (including wages and capital support) to Aboriginal community-controlled organisations to employ local people on community and enterprise development projects, and at its peak employed around 35 000 Indigenous people.[78] CHIP (1980–2007) provided funds for housing and related infrastructure in Indigenous communities, predominantly in remote areas.[79] These became the two largest programs under ATSIC.

For many Indigenous peoples, though, the developments during the 1970s and 1980s did not go far enough. Young Indigenous activists felt the movement for Indigenous rights was still too controlled by non-Indigenous leaders, and in urban areas a 'black power' movement and Black Caucus formed in the 1970s under the slogan 'Aboriginal control of Aboriginal affairs.' Indigenous people, first in large cities like Sydney, began to organise their own institutions of self-determination, including Aboriginal legal services, health services and housing co-operatives. Activists founded the Aboriginal Tent Embassy on the lawns of Canberra's parliament house in 1972

[74] G. Foley, 2011, *op cit.*

[75] E.A. Young, 1992, 'Aboriginal land rights in Australia: Expectations, achievements and implications', *Applied Geography*, 12, pp. 146–161.

[76] For example, P. Sullivan, 2011, *Belonging Together: Dealing with the Politics of Disenchantment in Australian Indigenous Policy*, Aboriginal Studies Press, Canberra; House of Representatives Standing Committee on Aboriginal Affairs, 1987, *Return to Country: The Aboriginal Homelands Movement in Australia*, Australian Government Publishing Service, Canberra.

[77] See for example J.C. Altman, 2002, *Generating finance for Indigenous development: Economic realities and innovative options* (CAEPR Working Paper No. 15), Centre for Aboriginal Economic Policy Research, ANU, Canberra; I. Palmer, 1988, *Buying Back the Land,* Aboriginal Studies Press, Canberra; D.P. Pollack, 2016, 'The political economy of the Aboriginals Benefit Account: Relevance of the 1985 Altman review 30 years on', in W. Sanders (ed.) *Engaging Indigenous Economy: Debating Diverse Approaches* (CAEPR Research Monograph No. 35), ANU Press, Canberra, pp. 239–250.

[78] K. Jordan (ed.) 2016 *Better Than Welfare? Work and Livelihoods for Indigenous Australians After CDEP* (CAEPR Research Monograph No. 36), ANU Press, Canberra.

[79] R. Porter, 2009, *From community housing to public housing in Northern Territory remote Aboriginal communities: The policy context* (DKCRC Working Paper 44), Desert Knowledge CRC, Alice Springs; PM&C, 2017, *Remote Housing Review: A Review of the National Partnership Agreement on Remote Indigenous Housing and the Remote Housing Strategy (2008–2018)*, Commonwealth of Australia, Canberra.

calling for land rights, sovereignty and self-determination.[80] And in remote areas government funding began to facilitate the development of Indigenous community-controlled organisations that came to be significant local service providers and advocates.

In the 1980s Indigenous peoples outside the Northern Territory pressed for land rights legislation similar to the ALRA which recognised inalienable freehold title. Land rights laws were implemented incrementally in six out of eight states and territories. Judicial recognition of Indigenous common law rights in land, so long as such rights had not been overridden by the Crown, was recognised by the High Court of Australia in 1992. An administrative process for claiming these 'native title' rights was introduced – and the rights themselves intentionally limited – by the Commonwealth *Native Title Act 1993*. However, none of these land rights or native title laws went as far as the Northern Territory legislation.

The Native Title Act, in particular, is sometimes seen as a frustration of the land rights movement, sitting at odds with the United Nations Declaration on the Rights of Indigenous Peoples and entrenching institutional racism.[81] It 'recognises and protects' native title except where this has been extinguished or impaired – by a validated past act, a permissible future act or agreement by the native title holders. But there are a range of difficulties with the native title process that make it 'inherently unfair' for Indigenous peoples.[82] It does not concede sovereignty or provide freehold title, but instead in many cases only recognises use rights including rights to hunt, gather, fish and hold ceremonies on land. Exclusive possession native title (where there has been no extinguishment) allows native title holders to control access to their native title lands and waters (except for mineral exploration and extraction); non-exclusive possession (where there has been partial extinguishment) does not. The future acts regime allows native title holders and claimants a right to negotiate over terms and conditions for resource developments, but provides no right of veto except in the Northern Territory. Mineral rights almost everywhere remain vested in the Crown (Australian governments), not with Indigenous land owners, although Aboriginal land owners enjoy what is effectively a *de facto* mineral right in the Northern Territory represented by right of consent provisions.

The post-referendum era also saw the establishment of a series of national political representative institutions culminating in ATSIC in 1990. ATSIC, like its predecessors the National Aboriginal Consultative Committee (NACC) (1973–77) and National Aboriginal Conference (NAC) (1977–85), was an elected national representative body. While NACC and NAC had been principally advisory, ATSIC combined representative and executive roles, including program administration. Its establishment was strongly opposed by the Howard opposition which claimed ATSIC would create a separate 'black parliament.' It never had such a function, but grew to deliver major Indigenous-specific programs with a budget of over $1 billion.

From Indigenous rights to Closing the Gap

The election of the Howard Commonwealth Government in 1996 saw the beginning of a new era in Indigenous affairs characterised by the state turning away from Indigenous rights. While the focus of policy rhetoric has changed several times since 1996, the Indigenous rights agenda that characterised the era of self-determination has been directly attacked or allowed to fade from view. Indigenous land rights, political representation and support for self-management were all diminished. In their place, governments have renewed policy emphasis on

---

[80] G. Foley, 2011, *op cit.*; G. Foley, A. Schaap and E. Howell (eds.), *The Aboriginal Tent Embassy: Sovereignty, Black Power, Land Rights and the State*, Routledge, London, 2014.
[81] For example, B. Smee, 2018, 'Native title system "embeds racism", Australia's first Indigenous silk says', *The Guardian*, 19 July.
[82] For example, applicants must ask for recognition of the legitimacy of their claims from 'often recalcitrant state governments' and possibly hundreds of interested parties, they are required to meet a high standard of proof that they have maintained continuous observance of the traditional laws and customs that have connected them to the lands in question (in spite of colonial practices such as forced removal), and extinguishment of native title is broad (particularly after substantial 'confirmations' of extinguishment under the Commonwealth *Native Title Amendment Act 1998)*. L. Strelein, 2009, *Compromised Jurisprudence: Native Title Cases Since Mabo*, Second edition, Aboriginal Studies Press, Canberra, pp. ix, 6.

socioeconomic outcomes, a focus that has had limited results. This period is sometimes characterised as one of 'mainstreaming', not just because of the policy of delivering formerly Indigenous-specific services through 'mainstream' government departments and not-for-profit organisations, but also because of its focus on achieving economic sameness between the Indigenous and mainstream populations.

The turn away from Indigenous rights is perhaps best illustrated in the case of native title. In late 1996, the High Court had resolved an unanswered question in native title law about the potential for native title to coexist with pastoral leases. In what became known as the Wik decision, the High Court found that native title and pastoral leases could coexist, unleashing a hostile campaign from pastoral and mining interests, especially the latter who were concerned that a right to negotiate might be legally required for future acts on any minerally prospective pastoral lands. The Howard Government made reversing the Wik decision through legislation a key plank of its 1998 re-election campaign, asserting that Indigenous people had gained too many rights. 'What has happened with native title', the Prime Minister argued in a now notorious television interview in 1997, 'is that the pendulum has swung too far in one direction, particularly after the Wik decision. And what I have done with this legislation is to bring it back to the middle.'[83]

Symptomatic of the turn away from rights was the incremental destruction of the institutions of Indigenous political representation. Curtailing ATSIC was high on the agenda of the incoming Howard Government's first cabinet meeting, which discussed 'the perceived need to bring ATSIC under tighter cabinet control.'[84] The new government subjected ATSIC to a special audit process intended to identify financial irregularities – when none were found, ATSIC's budget was nevertheless cut by 11%. A further review of ATSIC in 2003 recommended major structural changes to ensure better representation of Indigenous peoples, a strengthening of regional planning, and clearer separation of ATSIC's representative and administrative functions.[85] Ignoring these recommendations, the Australian Government declared that self-determination had 'failed',[86] and first the opposition and then the government pledged to abolish ATSIC. The organisation was dissolved in 2005, and the Australian government's preferred source of Indigenous policy advice since that time has been a succession of government-appointed Indigenous advisory panels.[87] As noted earlier, the National Congress of Australia's First Peoples is a membership-based organisation established in 2010: it was substantially defunded under the Indigenous Advancement Strategy (IAS) in 2014 but continues to advocate on Indigenous policy issues.

The abolition of ATSIC and the institution of the IAS are among the many policy changes to have eroded Indigenous self-management. In the case of ATSIC, self-administration within government was destroyed, with government responsibilities for Indigenous affairs transferred to 'mainstream' government departments.[88] The institution of the IAS weakened Indigenous self-management outside of government, with many Indigenous organisations being required to compete with non-Indigenous not-for-profit and religious organisations for service delivery contracts.[89] Seemingly unrelated policies in areas such as remote housing and Indigenous employment services – among others – have had similar trajectories of mainstreaming or 'normalisation',

[83] Howard appearing on the ABC *7.30 Report*. Quoted in J.C. Altman, 2016, 'Reconciliation and the quest for economic sameness', in S. Maddison, T. Clark, and R. de Costa (eds.), *The Limits of Settler Colonial Reconciliation: Non-Indigenous People and the Responsibility to Engage*, Springer, Singapore, pp. 213–230.

[84] M. Ivanitz, 2000, 'The demise of ATSIC? Accountability and the Coalition Government', *Australian Journal of Public Administration*, 59(1), pp. 3–12.

[85] A. Pratt and S. Bennett, 2004, *The end of ATSIC and the future administration of Indigenous affairs* (Current Issues Brief No. 4 2004–05), Parliamentary Library, Canberra.

[86] L. Behrendt, M. Jorgensen and A. Vivian, 2017, *Self determination: Background concepts* (Scoping paper 1), Prepared for the Victorian Department of Health and Human Services, Jumbunna Indigenous House of Learning, UTS, Sydney.

[87] A. Pratt and S. Bennett, 2004, *op cit.*

[88] P. Sullivan, 2011, *op cit.*

[89] A. Page, 2018, 'Fragile positions in the new paternalism: Indigenous community organisations during the "Advancement" era in Australia', in D. Howard-Wagner, M. Bargh and I. Altamirano-Jiménez (eds.), *The Neoliberal State, Recognition and Indigenous Rights*, ANU Press, Canberra, pp. 185–200.

including a partial dismantling of the Indigenous community organisation sector that had been delivering such services.[90]

In place of political representation, self-management and Indigenous rights to land, the Howard Government offered promises of economic gain – and framed this as a move from 'symbolic' to 'practical reconciliation.' Whereas Indigenous rights stemmed from the difference of Indigenous peoples, practical reconciliation sought to minimise the economic difference between Indigenous and 'mainstream' Australians. In particular, the Howard Government sought to redress economic difference by focusing on the key areas of health, housing, education and employment.

To aid this new agenda, a statistical archive was assembled to quantify Indigenous disadvantage and assess progress toward practical reconciliation. In 2002, COAG commissioned the Productivity Commission to develop indicators of Indigenous disadvantage.[91] The Productivity Commission has reported on progress toward 'overcoming Indigenous disadvantage' in a report usually published biannually ever since.[92] The most recent report, which has to some degree taken into account critiques that its indices do not account for differences in culture and aspiration, is now described as providing 'comprehensive report card measures where things have improved (or not) against 52 indicators across a range of areas including governance, leadership and culture, early childhood, education, health, home and safe and supportive communities, and includes case studies on things that work to improve outcomes.'[93] While it was evident from the mid-2000s that practical reconciliation was not achieving its desired outcomes, it remained de facto government policy.[94]

The practical reconciliation agenda of statistical convergence gained additional traction after the election of the Rudd Labor government in late 2007. In 2008, Rudd unveiled the 'Closing the Gap' policy that would form the key architecture of Commonwealth Indigenous affairs for the next decade. As described above, Closing the Gap took the practical reconciliation agenda further by codifying a series of seven national targets against which success and failure would be judged. Policy progress was reported on in an annual report and address by the Prime Minister to parliament.

There was very little meaningful consultation with Indigenous peoples to develop the Closing the Gap architecture. It drew on an emerging 'Close the Gap' health campaign that had been launched by a coalition of non-government organisations (NGOs) in 2006. The principle goal of that campaign – supported by more than 40 Indigenous and non-Indigenous health and human rights organisations – was to close the gap in life expectancy between Indigenous and non-Indigenous Australians by 2030.[95] Although this informed one of the headline targets for the Closing the Gap framework, there is no public evidence of consultation with Indigenous communities or organisations on the remaining Closing the Gap targets.

The very public failure of successive governments to meet their Closing the Gap commitments has galvanised some forms of resistance. Most prominent has been a discursive attack on the representation of Indigenous people that Closing the Gap entails.[96] This argument maintains that, by placing an almost singular emphasis on

---

[90] W. Sanders, 2014, *Experimental governance in Australian Indigenous affairs: From Coombs to Pearson via Rowse and the competing principles* (CAEPR Discussion Paper No. 291), Centre for Aboriginal Economic Policy Research, ANU, Canberra.

[91] T. Rowse, 2006, 'The politics of being "practical": Howard's fourth term challenge', in T. Lea, E. Kowal and G. Cowlishaw (eds.), *Moving Anthropology: Critical Indigenous Studies*, Charles Darwin University Press, Darwin, pp. 167–183.

[92] Note that the most recent report is from 2016; an updated volume was not produced in 2018.

[93] Productivity Commission, 2016, *Overcoming Indigenous Disadvantage: Key Indicators 2016*, Productivity Commission, Canberra.

[94] J.C. Altman, 2016, 'Reconciliation and the quest for economic sameness', *op cit.*

[95] Australian Human Rights Commission, 2019, *Close the Gap: Indigenous Health Campaign*, https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice/projects/close-gap-indigenous-health#who

[96] C. Fforde, L. Bamblett, R. Lovett, S. Gorringe and B. Fogarty, 2013, 'Discourse, deficit and identity: Aboriginality, the race paradigm and the language of representation in contemporary Australia', *Media International Australia*, 149(1), pp. 162–173; W. Fogarty, H. Bulloch, S. McDonnell and M. Davis, 2018, *Deficit Discourse and Indigenous Health: How Narrative Framings of Aboriginal and Torres Strait Islander People are Reproduced in Policy,* The Lowitja Institute, Melbourne; W. Fogarty, M. Lovell, J. Langenberg and M.-J. Heron, 2018, *Deficit Discourse and Strengths-Based Approaches: Changing the Narrative of Aboriginal and Torres Strait Islander Health and Wellbeing*, The Lowitja Institute, Melbourne; S. Gorringe, J. Ross, J. and C. Fforde, 2011, *'Will the real Aborigine please stand up': Strategies for breaking*

mainstream statistical indicators on which Indigenous peoples have relatively poor average outcomes, the Closing the Gap approach reinforces a concept of Indigenous peoples defined by what they lack. Here, an established critique[97] is taken further with the claim that such deficit representations lead directly to material harms through two avenues. First, deficit discourses enable the implementation of discriminatory and damaging government policy, providing ideological cover for discrimination under the guise of remediating the perceived 'problems of Aboriginality'. Deficit discourses work on settler politicians, bureaucrats and the public to produce either racist or simply ineffective policy solutions. The presentation of statistics describing Indigenous disadvantage is said to be a cause of interpersonal and structural racism, not just a consequence of it. Second, deficit discourses may be internalised by Indigenous peoples themselves. For example, negative stereotypes might be embraced by Indigenous youth who misrecognise deficit discourse as being Indigenous culture.[98] Such a critique implies, somewhat paradoxically, that socioeconomic gaps will not close until they cease to be the focus of policy discourse.

Another response to the failure of the Closing the Gap approach has been the push by Indigenous public figures to return to the Indigenous rights agenda. In particular, the proposal for a constitutionally enshrined 'Voice' to parliament reflects a desire for reform of the institutions of government among sections of the Indigenous community (these proposals are discussed elsewhere in this report). Calls for policy responses to refocus on Indigenous rights have not been favourably received by Australian national governments. Instead, the failure to close socioeconomic gaps has been met with an escalation of punitive social policies, designed on the premise that the provision of harsh economic incentives will change the behaviour of Indigenous Australians, and thus their population-level outcomes.[99]

Borrowing from the 'New Paternalism' of Lawrence Mead,[100] such punitive schemes have tended to further erode Indigenous rights. However, the effects of these punitive measures differ in form from the erosion of Indigenous collective rights described above, as in this case punitive policies have reduced Indigenous peoples' freedom from discrimination in accessing citizenship rights.[101] Several measures were enacted under the *Northern Territory National Emergency Response Act 2007* (NTER) and the *Stronger Futures in the Northern Territory Act 2012,* which increased governmental control over Aboriginal communities in the Northern Territory (with Stronger Futures extending key elements of the NTER to 2022).

Examples of punitive policies in the Northern Territory and other jurisdictions include: various forms of compulsory 'income management', which place limitations on how and where many Indigenous people in remote regions may spend their social security benefits; the Community Development Program, a workfare program operating in remote Australia that has resulted in the imposition of an extraordinary number of financial penalties (over 400 000 since 1 July 2015) on the Indigenous unemployed who fail to meet onerous work-for-the-dole requirements; and the School Enrolment and Attendance Measure, a system (discontinued at the end of 2017) which could financially penalise parents in some remote Indigenous communities if their children failed to attend school with sufficient regularity. There is little evidence that these punitive social policies have had their

---

the stereotypes and changing the conversation (AIATSIS Discussion Paper No. 28), Australian Institute for Aboriginal and Torres Strait Islander Studies, Canberra.

[97] See, for example, M. Dodson, 2003, 'The End in the Beginning: Re(de)finding Aboriginality', in M. Grossman (ed.), *Blacklines: Contemporary Critical Writing by Indigenous Australians*, Melbourne University Press, Carlton, pp. 25–42; M. Langton, 1993, *'Well, I heard it on the radio and I saw it on the television...': An essay for the Australian Film Commission on the politics and aesthetics of filmmaking by and about Aboriginal people and things*, Australian Film Commission, North Sydney.

[98] S. Gorringe, et al., 2011, *op cit.*

[99] The move from self-determination to practical reconciliation and mainstreaming can also be framed as the much fuller adoption of neoliberalism as the dominant policy framework, including through the strategic use of punitive policies to embed neoliberal values in Indigenous subjects. See J.C. Altman, 2014, 'Indigenous policy: Canberra consensus on a neoliberal project of improvement', in C. Miller and L. Orchard (eds.), *Australian Public Policy: Progressive Ideas in the Neo-Liberal Ascendency*, USA Policy Press, Bristol UK and Chicago IL, pp. 115–132.

[100] L.M. Mead, 1997, *The New Paternalism: Supervisory Approaches to Poverty*, Brookings Institution Press, Washington DC.

[101] S. Bielefeld and J.C. Altman, 2015, 'Australia's First Peoples: Still struggling for protection against racial discrimination', in Australian Human Rights Commission Conference, *Perspectives on the Racial Discrimination Act*, Australian Human Rights Commission, Sydney.

desired outcomes in terms of improving socioeconomic outcomes. Rather, they are likely to have contributed to the increasing prevalence of poverty in remote Indigenous communities.

Key policy issues relevant to Indigenous peoples and regional economic development

In the last Closing the Gap report in 2019 it was demonstrated that most statistical gaps were not closing at both the national and state/territory levels. But the regional story is even more problematic with some key economic indicators like unemployment and poverty levels increasing in absolute terms in remote and very remote regions, where paradoxically Indigenous people have significant land holdings under land rights and native title laws. Some emerging issues for these regions in terms of economic development include the following.

Geographic diversity and the need to be sensitive to context

One prominent feature of mainstreaming is that it has been largely predicated on 'one size fits all' policy approaches.[102] It is clear, though, that a uniform set of policies and development approaches across the diverse geographical contexts in which Indigenous people in Australia live is inappropriate. Rather, policies and programs that seek to promote economic development should account for the different demographies, histories and economies of each region.

Some areas face particular locational advantages or disadvantages (such as rates of unemployment, the industrial profile of the region, and access to public transport and other infrastructure and services). Regional and remote areas may have fewer employment opportunities, and/or be dominated by a small number of industries and therefore particularly susceptible to business cycle fluctuations and technological change and automation.[103] Sustaining a small commercial enterprise in these areas is challenging owing to limited access to markets. On the other hand, some metropolitan areas may have unique economic challenges such as the decline of traditional industries, even when they are close to established markets. Alongside these regional characteristics, the diversity of Indigenous peoples, cultures and circumstances may also have implications for economic opportunity and aspiration. For instance, regional and remote areas – where Indigenous rights and interests in land have been most widely recognised – may present greater opportunity for leveraging economic gains from these titles. They may also offer prospects for the continuation of aspects of the customary economy and the development of niche enterprises in this sector, such as in arts production, cultural tourism and bush food and medicine.

There are, however, no neat 'urban/remote' divides – smaller parcels of land in urban areas are also held by Indigenous people under communal or private titles and there are many examples of enterprises in these regions that draw on Indigenous cultures and traditions. It may be more useful to examine the constraints and opportunities of regions based around their common 'structural settings' (such as high-unemployment city suburbs, industrial towns, discrete Indigenous communities) rather than the standard classifications (remote, regional and urban) which tend to gloss over quite profound differences, for example among regional areas or within cities.[104]

In response to this diversity it is widely recognised that effective support for economic development requires on-the-ground engagement with Indigenous peoples to identify opportunities, constraints and aspirations. It also

---

[102] See for example M.C. Dillon and N.D. Westbury, 2007, *Beyond Humbug: Transforming Government Engagement with Indigenous Australia*, Seaview Press, South Australia, p. 69.

[103] E. Sheppard, 2013, 'Thinking through the Pilbara', *Australian Geographer*, 44(3), pp. 265–282.

[104] J. Taylor, 2006, *Population diversity: Policy implications of emerging Indigenous demographic trends* (CAEPR Discussion Paper No. 283), Centre for Aboriginal Economic Policy Research, ANU, Canberra.

necessitates support for local or regional governance institutions, the devolution of decision-making and some devolution of financial authority so that locally-driven development can be sustained.[105]

Governments in various jurisdictions have introduced models ostensibly to facilitate local level decision-making. In its 2013 OCHRE Plan the NSW Government began a staged process to devolve some decision-making and accountability to Aboriginal Regional Alliances through its Local Decision Making (LDM) program. These alliances are comprised of representatives selected by Indigenous communities within defined regions. Under LDM they can enter into accords with the government that commit the parties to 'jointly address agreed priorities', with power and budgetary control increasingly delegated to the alliances in three stages, from advisory, to planning, to implementation.[106] A recent evaluation of OCHRE – considering its implementation and early outcomes – noted that many participants in the LDM model see it as progressive and 'in some ways the furthest towards actual expression of self-determination in Australia.'[107] However, the evaluation also noted that the LDM process is 'inherently unequal' in that it is led by government and under-resourced. While it 'has the potential to make a difference at the margins' it is 'unlikely to be able to change or influence core policies.'[108] Nonetheless, the NSW Coalition of Aboriginal Regional Alliances (whose members are parties to the LDM accords) see potential in OCHRE and have called for it to be continued and strengthened 'rather than it ending up being just another "pilot" that disappoints our people'.[109]

The Australian government has also indicated an intention to move away from 'one-size-fits-all mindset for program design, to local solutions'.[110] Since 2015 the principal mechanism for embedding this approach has been through a Regional Network of staff from PM&C who have a permanent or visiting presence in eight capital city offices, 26 regional and remote offices and more than 400 communities.[111] The role of the Regional Network is to include on-the-ground engagement with Indigenous communities and, although policy decisions are centralised within PM&C, the network is intended to 'enable decisions to be made closer to the people and communities that are impacted'.[112] A report by the ANAO in 2018 identifies key problems with the implementation of this network. For example, funding cuts have seen its staffing reduced by 17.5% since 2015 (much higher than the reduction of 8.5% across the PM&C Indigenous Affairs group as a whole).[113] In 2016 PM&C drafted 'regional strategies' for each of the regions in the network. Although these were 'intended to reflect community-identified priorities', PM&C 'did not consult with Indigenous communities when developing the strategies … As such, it is not clear how the department has assurance that the strategies reflect the priorities of local communities.'[114] The regional strategies are now being replaced by 'regional blueprints', but the extent to which Indigenous communities are being consulted in their preparation is unclear.

The ANAO also found that the Regional Network lacked formalised stakeholder engagement strategies or protocols. And although the government's intention was that some decision-making would be devolved to the network (for example, to commit funds up to a certain limit to 'suit the local context'), the funds available for Regional Network staff have been very limited and the Minister for Indigenous Affairs 'has elected to retain decision-making authority in relation to most grant funding approvals'.[115] Overall, the ANAO report found that

---

[105] For example, S. Cornell and J.P. Salt, 2007, 'Two approaches to economic development on American Indian Reservations: One works, the other doesn't', in M. Jorgensen (ed.), *Rebuilding Native Nations: Strategies for Governance and Development*, The University of Arizona Press, Arizona, pp. 3–33; J.C. Altman, 2014, 'Indigenous policy: Canberra consensus on a neoliberal project of improvement', *op cit.*
[106] Aboriginal Affairs NSW, 2017, *Local Decision Making Partnership and Collaboration Conference, Final Report*, Aboriginal Affairs NSW, Sydney, p. 7.
[107] I. Katz, S. Bates, J. Idle, W. Jopson and M. Barnes, 2018, *OCHRE Evaluation Stage 1: Implementation and early outcomes. Synthesis Report* (SPRC Report/18), Social Policy Research Centre, UNSW, Sydney, p. 13.
[108] *Ibid.*
[109] NCARA (NSW Coalition of Aboriginal Regional Alliances), 2018, *A Step Closer: A Report with Recommendations from NCARA to the New South Wales Government following Stage One of the OCHRE Evaluation*, NCARA, Sydney, p. 5.
[110] M. Turnbull, in ANAO, 2018, *Management of the regional network* (Auditor-General Report No. 7 2018–19), ANAO, Canberra, p. 43.
[111] ANAO, 2018, *ibid.*, p. 15.
[112] PM&C, in ANAO, 2018, *ibid.*, p. 7.
[113] ANAO, 2018, *ibid.*, p. 27.
[114] *Ibid.*, p. 32.
[115] *Ibid.*, p. 42.

the potential of the network to facilitate design and delivery of local solutions had not been realised, and that network officers had little decision-making authority.[116]

Rights, representation and governance

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) sets out the rights of Indigenous peoples to self-determination, including the right to 'freely determine their political status and freely pursue their economic, social and cultural development' (Article 3). The Australian government gave its belated endorsement to UNDRIP in 2009.[117] While the government stated at that time that the declaration is 'non-binding', 'aspirational' and 'does not affect existing Australian law',[118] it does have an attenuated impact in the domestic legal system. For example, it can be used by courts 'when attempting to construe the meaning of a statute or in cases of statutory ambiguity.'[119] In these instances, courts should 'favour a construction which accords with Australia's [international] obligations.'[120] In becoming a member of the UN Human Rights Council 2018–2020 Australia committed to 'giving practical effect to the outcome document of the Declaration.'[121]

Nonetheless, at the Australian government level, the trend in recent decades has been away from institutional and political support for Indigenous self-determination. The UN Special Rapporteur on the Rights of Indigenous Peoples noted in 2017 that Australia's failure to respect the rights of Indigenous peoples 'to self-determination and to full and effective participation is alarming'.[122] This has significant implications for economic development. Evidence in Australia and internationally suggests that Indigenous self-determination and self-governance are essential foundations for sustained economic development among Indigenous peoples.[123] Research also suggests that there is a 'development dividend' to 'good' governance, and that 'weak governance capacity' in Indigenous communities is a contributing factor where there are failures in economic development.[124] For these reasons, 'Indigenous economic development is a governance issue.'[125]

From this perspective the demands emerging from Indigenous deliberation for a constitutionally-enshrined 'Voice' to parliament, the enactment of treaties and the establishment of a truth-telling commission are clearly significant for Indigenous regional development. The Uluru Statement from the Heart speaks to this relationship, identifying that at the centre of the challenges faced by First Nations peoples is 'the torment of our powerlessness'.[126] As well recommending the establishment of a representative Indigenous body, or 'Voice', to parliament to help shape policy and legislation in Indigenous affairs, it proposes an agreement-making process (which could include agreements on economic development). The details of the Voice proposal have been deliberately left open. However, a parliamentary Joint Select Committee has sought submissions on the form an Indigenous Voice to parliament should take, how it should be established, and its functions and scope.

---

[116] *Ibid.*, p. 36.
[117] J. Macklin, 2009, Statement on the United Nations Declaration on the Rights of Indigenous Peoples, Speech, 3 April, Parliament House, Canberra.
[118] *Ibid.*
[119] M. Davis, 2013, 'To Bind or not to Bind: The United Nations Declaration on the Rights of Indigenous Peoples five years on', *Australian International Law Journal*, 3, p. 39.
[120] M. Gleeson, in M. Davis, 2013, *ibid.*
[121] Special Rapporteur on the Rights of Indigenous Peoples, 2017, Report of the Special Rapporteur on the rights of indigenous peoples on her visit to Australia, Human Rights Council, Thirty-sixth session, A/HRC/36/46/Add.2.
[122] *Ibid.*
[123] S. Cornell and J.P. Salt, 2007, *op cit.*; L. Behrendt, M. Jorgensen and A. Vivian, 2017, *op cit.*; Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, 2018, *Interim Report*, Parliament of Australia, Canberra, sections 2.46–2.58; Empowered Communities, 2015, *op cit.*, p. 11; K. Jordan and N. Biddle, 2017, 'Economic prosperity', in NSW Department of Aboriginal Affairs, *Transforming the Relationship between Aboriginal Peoples and the NSW Government, Aboriginal Affairs NSW Research Agenda 2018–2023*, pp. 53–81.
[124] D. Smith, 2008, 'The business of governing: Building institutional capital in an urban enterprise', in J. Hunt, D. Smith, S. Garling and W. Sanders (eds.), *Contested Governance: Culture, Power and Institutions in Indigenous Australia* (CAEPR Research Monograph No. 29), ANU E Press, Canberra, p. 205.
[125] *Ibid.*, p. 206.
[126] Referendum Council, 2017, Uluru Statement from the Heart, in *Final Report of the Referendum Council*, Commonwealth of Australia, Canberra.

The Committee identified that there is strong community support for the Voice proposal, and notes a 'shift in thinking' evident in the submissions away from a singular national Voice to 'some combination of a local, regional, and national model'[127] to allow for a plurality of voices. It also notes the importance of the Voice or Voices being perceived by Indigenous communities to be legitimate, credible, effective and meaningful. There are a range of difficulties in achieving this given the diversity of Indigenous peoples, their differing aspirations and institutional capacities, differing notions of legitimacy and cultural authority, and challenges in identifying appropriate boundaries for a regional structure. However, the Committee supports a principle of co-design so that, while much of the work should be led by Indigenous people, the design of the Voice proposal is 'informed by the two parties that it seeks to bring together – Aboriginal and Torres Strait Islander peoples and the Parliament.'[128]

How such a proposal would intersect with existing Indigenous organisations and institutions, as well as different levels of government, is not yet clear. A 2013 paper estimated the number of registered or incorporated Indigenous organisations to be more than 5000 nationally.[129] These include organisations with a range of service provision functions (land management, health, legal, medical etc.), as well as organisations tasked with managing lands under native title and land rights legislation, and organisations with a range of governance functions such as resource centres and community councils. Some Indigenous organisations have been defunded over the last decade.[130] However, while this means that local capacity in some regions requires substantial rebuilding, there are a large number of Indigenous organisations that already include some form of representative structure and local authority and that have roles and responsibilities in policy advocacy, economic development and a range of civil society functions. In this complex institutional landscape there is an 'often tangled web' of relationships and land-ownership rights, accompanied by a longstanding concern relating to '"who" should be the relevant Indigenous actors in the governance of economic initiatives'.[131]

Evidence presented to the Joint Select Committee gives a 'consistent message' that the relationship between existing Indigenous organisations and a local or regional Voice to parliament should be a matter for local Indigenous communities. There was also a view that a Voice should not replace existing representative structures or existing statutory obligations for consultation.[132] The relationship between a Voice to parliament and the existing peak representative body for Indigenous peoples (Congress) is also unclear. Congress is supportive of the Voice proposal and has indicated that 'it could function as the Voice'.[133] The interim report of the Joint Select Committee suggests that it 'seems logical' for a Voice to parliament to have a role not only regarding federal legislation but also to have the same or similar functions in relation to state and local laws and policies.[134] It also seems reasonable to assume that a Voice or Voices would have some relationship with Indigenous organisations that are established or emerging under state-based processes, such as the Aboriginal Regional Alliances under the LDM program in NSW.

The Australian Government has opposed the proposal for an Indigenous Voice to parliament on the grounds that it would create a separate status for Indigenous peoples and the unsubstantiated view that it would be a 'third chamber' of parliament – the same (ultimately unsuccessful) argument that was used against the

[127] Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, 2018, *Interim Report*, Parliament of Australia, Canberra, section 3.1.
[128] *Ibid.*, section 7.26.
[129] S. Holcombe and P. Sullivan, 2013, 'Australian Indigenous organizations', in D. Douglas Caulkins and A.T. Jordan (eds.), *A Companion to Organizational Anthropology* (Blackwell Companions to Anthropology), Wiley-Blackwell, New Jersey, pp. 493–518.
[130] For example, under: the Indigenous Advancement Strategy; the amalgamation of 60 Indigenous community councils into large shire councils in the Northern Territory; and the closure of the CDEP scheme. See ANAO, 2017, Indigenous Advancement Strategy, ANAO Report No.35 2016–17, ANAO, Canberra; Central Land Council, 2013, *Submission to the 'Options for Regional Governance in the Northern Territory' consultation process*, Central Land Council, Alice Springs NT; K. Jordan (ed.), 2016, *Better Than Welfare? Work and Livelihoods for Indigenous Australians After CDEP* (CAEPR Research Monograph No. 36), ANU Press, Canberra.
[131] D. Smith, 2008, *op cit.*, p. 206
[132] Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, 2018, *Interim Report*, Parliament of Australia, Canberra, section 3.59–3.66.
[133] *Ibid.*, section 3.67.
[134] *Ibid.*, section 7.18.

establishment of ATSIC in the late 1980s.[135] The Joint Select Committee, however, has committed to 'taking this work forward.'[136]

Alternative development

A key debate in relation to regional development for Indigenous peoples is the extent to which endogenous Indigenous notions of development should be recognised and supported in comparison to exogenous Western and imposed notions of development. One aspect of this is the tensions that exist between Indigenous norms and values which, despite their diversity, tend to favour community and relationality in contrast to dominant non-Indigenous norms and values that valorise individualism and private accumulation. Another is the diversity of development aspirations among Indigenous peoples, particularly recognising the commitment of many people to remain living remotely on their Country[137] and the potential in urban and regional areas to leverage economic development from communal land holdings where these exist.

One useful frame for understanding these debates is the notion of 'strengths-based' development. As noted above, the dominant Australian government approach, including Closing the Gap, has tended to focus on 'deficits.' In contrast, strengths-based approaches build on and learn from the strengths and resilience within Indigenous communities, including existing assets and the successful initiatives already being taking at the local level.[138] A focus on strengths is consistent with conceptualisations of alternative development such as the 'hybrid economy' framework. This framework recognises that economic development for Indigenous peoples in Australia cannot be understood unless the significance of the customary sector is acknowledged.[139] It extends the usual 'two-sector' economic model of the market and the state – and therefore conventional notions of development – to explore the economic potential of customary activity including where this occurs on Indigenous-owned lands. Potential gains include empowerment of Indigenous peoples and organisations to pursue development alternatives that realistically align with their aspirations and production possibilities – that are in many situations fundamentally different from those of mainstream Australians.

The hybrid economy model suggests that much productive activity occurs where there are sectoral overlaps.[140] This acknowledges that pursuing opportunities for alternative development that draw on customary economic activity requires appropriate state and market investment and support. The Australian government has yet to fully realise this potential. For example, in the remote north of Australia, the Australian government's vision is to 'develop the north' facilitated by an unprecedented in-migration of 2–4 million non-Indigenous people.[141] It is unclear how Indigenous peoples who have land title to most of this region will benefit from such market capitalist

---

[135] A. Pratt and S. Bennett, 2004, *The end of ATSIC and the future administration of Indigenous affairs* (Current Issues Brief No. 4 2004–05), Canberra, Parliamentary Library.

[136] Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples, 2018, *Interim Report*, Parliament of Australia, Canberra, section 7.10.

[137] 'Country' in Aboriginal English includes the lands and waters as well as associated culture, Laws, spirit beings, human beings and natural phenomena. All of these are interconnected and interact with each other. D.B. Rose, 1996, *Nourishing Terrains: Australian Aboriginal Views of Landscape and Wilderness*, Australian Heritage Commission, Canberra, p. 7; see also J.C. Altman and S. Kerins (eds.), *People on Country: Vital Landscapes, Indigenous Futures*, The Federation Press, Annandale, NSW.

[138] Aboriginal Affairs NSW (ed.), 2017, *Transforming the Relationship Between Aboriginal Peoples and the NSW Government: Aboriginal Affairs NSW Research Agenda 2018–2023*, Aboriginal Affairs NSW, Department of Education, Sydney. For a typology of what 'strengths based' can mean in development approaches related specifically to Indigenous health and wellbeing, see W. Fogarty, M. Lovell, J. Langenberg and M.J. Heron, 2018, *Deficit Discourse and Strengths-Based Approaches: Changing the Narrative of Aboriginal and Torres Strait Islander Health and Wellbeing*, Melbourne, The Lowitja Institute.

[139] J.C. Altman, 2004, 'Economic development and Indigenous Australia: Contestations over property, institutions and ideology', *The Australian Journal of Agricultural and Resource Economics*, 48(3), pp. 513–534; see also K. Curchin, 2019, 'Economic hybridity in remote Indigenous Australia as development alterity', in E. Klein and C.E. Morreo (eds.), *Postdevelopment in Practice: Alternatives, Economies, Ontologies*, Routledge, New York.

[140] J.C. Altman and N. Biddle, 2014, 'Refiguring Indigenous economies: A 21st-century perspective', in S. Ville and G. Withers (eds.), *The Cambridge Economic History of Australia*, Cambridge University Press, Port Melbourne, Victoria, pp. 530–554; J.C. Altman, 2014, 'Indigenous policy: Canberra consensus on a neoliberal project of improvement', in C. Miller and L. Orchard (eds.), *Australian Public Policy: Progressive Ideas in the Neo-Liberal Ascendency*, USA Policy Press, Bristol UK and Chicago IL, pp.115–132.

[141] Australian Government, 2015, *Our North, Our Future: White Paper on Developing Northern Australia*, Commonwealth of Australia, Canberra.

development to be heavily underwritten by the state. Indigenous land councils have called instead for state support for the planning and implementation of development strategies that are Indigenous-led.[142]

Indigenous land rights and economic development

The incremental passage of land rights legislation for states and territories from the 1960s, and the development of native title jurisprudence and legislation from the 1990s has seen a land rights revolution take place. In 1965, no Indigenous group owned land under land rights legislation, although a series of reserves were held by the state for Indigenous benefit. In 2018, 46% of the continent is Indigenous-held land, returned either under land rights legislation, various forms of grant schemes including through the Indigenous Land Corporation, and returned through native title. In Fig. 5, we distinguish between native title determinations in which exclusive possession has been granted (12% of the Australian landmass), and those in which non-exclusive possession has been granted (23% of the Australian land mass). Land rights lands are mostly concentrated in the Northern Territory and South Australia, and cover 12% of the continent.

In native title determinations, the courts recognise different 'bundles' of rights in land and waters. In some areas, exclusive possession native title exists which allows native title holders the right to exclude other people from entering their property, and the right to negotiate with mining companies about developments on their lands. More often, the courts have recognised non-exclusive possession, which usually means that native title holders can access land for customary purposes including hunting, camping and performing ceremonies, but have to share their customary lands with other non-Indigenous groups who have an interest in their land. In 2013, the High Court recognised that non-exclusive possession native title may for some native holders include commercial rights, such as the right to catch and sell commercial quantities of fish. These commercial rights may be exclusive or non-exclusive, depending on the details of the determination.[143]

A further 25% of Australia is currently subject to a native title claim, mostly in those states with weaker land rights legislation such as Western Australia (44% of currently claimed land), Queensland (28% of currently claimed land) or NSW (14% of currently claimed land). The magnitude of on-going native title claims is important, not just because it foreshadows future determinations, but because claimants whose applications have passed a registration test are entitled to a number of procedural rights with regards to development on their claimed land. In particular, registered native title claimants are entitled to a right to negotiate with proponents of minerals developments taking place on their claimed land. Claimants face the perverse position that a native title determination may reduce their rights, not only if native title is determined to not exist or to have been extinguished. Even a finding of non-exclusive possession native title reduces some rights of registered claimants, as it no longer bestows the right to negotiate with proponents of mineral developments.

The Timber Creek compensation test case, decided in March 2019, has been described as 'the most significant native title decision since Mabo', in that it recognised damages for cultural loss.[144] That is, the High Court estimated just terms compensation for invalid extinguishment of non-exclusive native title at 50% of the real estate value of the land, plus the requirement to back pay interest to the date of extinguishment, plus the requirement to make an additional payment for the spiritual pain and suffering experienced by affected native title parties. The decision could inform exploration of further opportunities for compensation which 'maximise self-determination and economic opportunity'.[145]

---

[142] Central Land Council, 2016, 'NT Land Councils Call for Indigenous Led Northern Development', Media Release, 24 August, http://www.clc.org.au/media-releases/article/nt-land-councils-call-for-indigenous-led-northern-development.
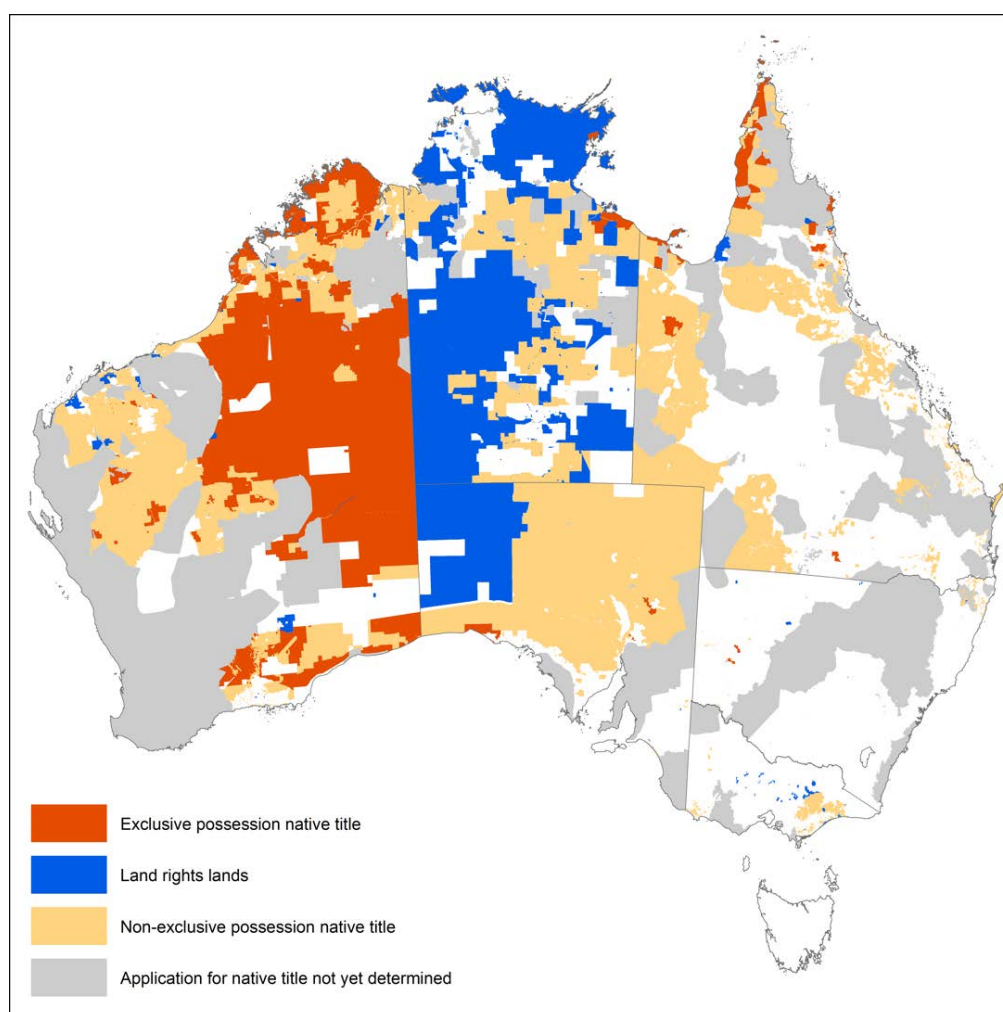[143] P. McCabe, 2016, 'Pilki and Birriliburu: Commercial native title rights after Akiba', *Indigenous Law Bulletin*, 19(2), pp. 64–85.
[144] M. Pelly, 2019, 'High Court's Timber Creek ruling the biggest native title decision since Mabo', *Australian Financial Review*, 14 March.
[145] M. Lavarch, 2019, 'Let Timber Creek be a step towards true and respectful reconciliation', *The Guardian*, 14 March.

By and large, though, land rights and native title in Australia have only had a limited flow-on impact for mainstream economic development. This is attested to by the cash poverty rate in remote Indigenous communities, which reached above 50% for the first time in 2016.[146] In general, those living on Indigenous-held land are among the most economically disadvantaged among the Indigenous population when mainstream indicators such as employment and cash income are considered. This is not a function of land restitution *per se*. Rather, the land that has been returned, especially land that has been returned with strong property rights, was not alienated from the Crown by the 1960s because it was far from population centres and labour markets, and had little agricultural productivity. In other words, the land that has been returned has low market value. It is unsurprising therefore, that its return might have had limited economic implications. On the other hand, the return of land is immensely important for social justice and the wellbeing of the Indigenous population. For example, Indigenous people in remote Australia are more likely to report higher levels of happiness and other measures of subjective wellbeing.[147]

Fig. 5.   Indigenous held and claimed land, 2018

Exclusive possession native title

Land rights lands

Non-exclusive possession native title

Application for native title not yet determined

Indigenous people in remote Australia have diverse aspirations regarding economic development. While some may aspire to working in formal full-time employment, others might wish to apply themselves to customary activities such as harvesting food outside the formal economy and beyond visibility of most statistical indicators. For example, systematic observations at three outstations in Arnhem Land reported by Altman found an

---

[146] F. Markham and N. Biddle, 2018, *Income, poverty, inequality*, *op cit.*
[147] N. Biddle, 2014, Measuring and analysing the wellbeing of Australia's Indigenous population, *Social Indicators Research*, 116(3), pp. 713–729.

average of 1.6 kilograms of game was harvested per capita per day in the mid-dry season.[148] Activity of this sort in the customary economy generally fails to register in standard statistical collections, and is poorly measured in specialised data collections.[149] Nevertheless, the National Aboriginal and Torres Strait Islander Social Survey (NATSISS) of 2014/15 reported that 85% of Indigenous adults in Very Remote areas participated in customary food harvesting activities in the previous 12 months. The customary economy is clearly strongest in remote areas where the bulk of land restitution has occurred.

However, *commercial* activity (as opposed to economic activity more broadly which includes non-market economic activity) occurring on returned land does occur. It also remains somewhat hidden in aggregate statistics, because no account of economic activity based on land restitution currently exists. Consequently, we illustrate this sector by discussing three prominent cases: visual arts production, carbon abatement and environmental management.

Cultural production may, in certain circumstances, be partially commodified and sold as a good or service on the market. Emblematic of this is the example of visual arts. Customary knowledge may be embedded in paintings and other forms of art, the sales of which can amount to a significant income stream, often with some government support. For example, at Yuendumu, a mid-sized remote community, art sales and copyright payments generated revenue from the private market of over $2.5 million dollars in 2017, with the art centre leveraging a further $460 000 in government grants. Around half of revenue was dispersed directly to artists as cash income, providing mean personal cash income of over $2000 per adult resident of the community (noting that this income is unevenly distributed between community members) and further income being dispersed locally as wages to art centre employees.[150] According to the 2014/15 NATSISS, 13% of Indigenous adults in remote Australia received cash income from cultural activities in the previous 12 months.

While visual arts may trade upon returned land indirectly, more direct commodification of land-based resources also takes place. Carbon farming is one example of this. The Arnhem Land Fire Abatement (ALFA) project, for example, is generating both public benefit and economic activity by reducing greenhouse gas emissions. ALFA had its origin in the West Arnhem Land Fire Abatement (WALFA) project which began in 1997. WALFA took many years to gain funding, support and recognition, initially undertaking burning that was funded by private interests. ALFA now receives support from the Commonwealth through the Emissions Reduction Fund. ALFA's primary abatement strategy relies on fire management of Aboriginal-owned land. According to their 2017 financial report, ALFA abated over 700 000 tonnes of CO_2e in that year, in the process generating both employment and over $6.8 million in revenue.

Commodified Indigenous environmental service provision is primarily purchased by the state. Indigenous community-based ranger groups are involved with caring for country projects across Australia. Caring for country activities are often undertaken with reference to customary land management practices, and may include weed and feral animal control, fire management, and revegetation. The Commonwealth reports that as of 31 January 2018, 831 fulltime equivalent positions were funded in 118 rangers groups across the country.[151] Economic modelling suggests that this land-based activity not only provides direct economic benefits, but also provides flow-on multiplier effects that are greater in magnitude than other land-based remote economic

[148] J.C. Altman, 2003, 'People on country, healthy landscapes and sustainable Indigenous economic futures: The Arnhem Land case', *The Drawing Board: An Australian Review of Public Affairs*, 4(2), p. 18.

[149] J.C. Altman, N. Biddle, and G. Buchanan, 2012, 'The Indigenous hybrid economy: Can the NATSISS adequately recognise difference?', in B. Hunter and N. Biddle (eds.), *Survey Analysis for Indigenous Policy in Australia: Social Science Perspectives* (CAEPR Research Monograph No. 32), ANU Press, Canberra, pp. 163–192.

[150] Figures from Warlukurlangu Art Aboriginal Corporation's audited financial statements for 2016–17.

[151] PM&C, 2018, 'Indigenous Rangers – Working on Country'. Retrieved from: https://perma.cc/ZDA5-FFB2

activities such as pastoralism and mining.[152] Of course, Indigenous people also provide informal environmental services without funding, especially when living on outstations, albeit with a lower productivity.

Each of these three cases demonstrates the viability of land-based commercial activity by Indigenous groups, and that the state has a role to play in supporting development. In the case of remote visual arts, a modest expenditure by the state – sometimes in the form of grants for infrastructure, other times in the form of assistance in meeting the salaries of on-going staff – supports an economically and culturally vibrant remote Indigenous visual arts sector. In the case of carbon abatement, the state has provided only limited support to ALFA. Most crucial has been its indirect support through the establishment and regulation of a carbon market, although direct support through purchasing of carbon abatement units through the Emissions Reduction Fund has been increasingly important in recent years. In the third case of Indigenous Ranger programs, the state is a significant funder of programs which directly employ remote Indigenous people to provide environmental management services through customary management of their lands. The state is actively involved here both as a purchaser of environmental management services and as a funder whose expenditure supports Indigenous employment in the customary sector.

The lesson from this is that while Indigenous people are able to leverage their returned land for economic development, this is most successful when supplemented by state support. However, none of these industries were developed by the state. Rather, they all originate in grassroots Indigenous initiatives that the state later came to assist financially in various ways. This can be in the form of direct support of particular industries, as in the case of visual arts, much like industry policy more generally seeks to provide strategic support for economic development. However, locally-directed financial subsidies in the form of CDEP played a crucial role in the development of these industries in their early decades. The provision of state support in a manner that is flexible, locally directed and untied to specific outcomes is likely to be crucial to the success of any future industrial development on Indigenous land.

Resource deficits

The provision of adequate state support seems unlikely in a time in which a mainstreaming approach is taken to Indigenous policy and there appears to be a significant resource deficit in remote Indigenous Australia. This resource deficit appears both in the form of an infrastructure backlog, as well as insufficient funds to alleviate cash poverty and foster appropriate economic development.

Remote Indigenous housing is perhaps the emblematic example of a resource deficit on Indigenous lands. In 2008, remote Indigenous housing policy was radically reshaped, with remote Indigenous housing being taken out of local community control for the most part, and placed under the management of state and territory housing authorities. In return for shifting control of the dwelling stock into government hands, the Commonwealth committed to substantially elevating expenditure on remote housing for a period of 10 years (2008–2018). The National Partnership Agreement on Remote Indigenous Housing increased annual Commonwealth expenditure on remote Indigenous housing by somewhere between 60% and 130% compared to the ATSIC era, depending on the measure of baseline expenditure used. Yet despite this unprecedented level of government effort, construction of new housing infrastructure was only sufficient to keep pace with population growth. The absolute number of remote Indigenous people living in overcrowded dwellings or structurally unsound dwellings remained approximately constant over this period. In other words, the resource

---

[152] D. Jarvis, N. Stoeckl, R. Hill and P. Pert, 2018, 'Indigenous land and sea management programs: Can they promote regional development and help "close the (income) gap"?' *Australian Journal of Social Issues*, 53(3), pp. 283–303.

deficit in remote Indigenous housing is so extreme that even unprecedented levels of expenditure – which look unlikely to be sustained – have had little impact on reducing the size of the infrastructure deficit.[153]

Against such an account, it is worth considering the already reportedly high levels of government expenditure on Indigenous Australians. According to the regularly produced Indigenous Expenditure Report,[154] all levels of Australian government spend approximately $33 billion per year on Indigenous Australians, roughly double the per capita government expenditure on services for non-Indigenous Australians. Perhaps, it might be argued, sufficient government effort is already being expended.

Yet such an account is misleading for several reasons. First, it includes the provision of basic citizenship entitlements, like public school education for example, that all residents are eligible to receive and Indigenous people utilise more frequently due to their younger demographic profile. More curiously, it also includes an Indigenous-allocated proportion of collectively consumed national spending on items like roads and national defence. Assistance to specific industries is categorised as benefiting the community in which the assistance takes place who may be Indigenous, rather than as benefitting business owners who are disproportionately non-Indigenous. Second, the figure does not include tax concessions, for which Indigenous people are far less likely to be eligible. For example, the biggest cost to the Commonwealth in the policy area of housing is on concessions on capital gains tax for owner-occupied dwellings, which are worth $60 billion per year in foregone revenue, and disproportionately benefit non-Indigenous people (this is just one of several Commonwealth tax expenditures on housing, all of which disproportionately benefit non-Indigenous Australians). Third, governments undertake expenditure which may be actively harmful to Indigenous people but which is accounted for as Indigenous expenditure. For example, money spent objectively opposing Indigenous interests in, for example, native title litigation, is accounted for as Indigenous expenditure. Similarly, Australian governments spend 14 times more per person on prisons for Indigenous people than non-Indigenous people, and 26 times more on juvenile corrections, both of which contribute to the increased Indigenous expenditure ratios. Fourth, expensive programs that are targeted specifically at overcoming Indigenous disadvantage may be ineffective, or worse, may have harmful consequences. For example, the cashless debit card trial cost $18.3 million in its initial 12-month trial period, with a further $1.6 million spent to undertake a flawed evaluation.[155]

There is little evidence to suggest that the program, costing $8700 per participant per year (plus $760 per participant for evaluation), has had a significant positive effect.[156] In consequence, it is difficult to determine the level of resources being specifically allocated to meaningful strategies to empower Indigenous Australians and address their socioeconomic disadvantage.

Of course, significant funds are already set aside for Indigenous development in several forms.[157] By June 2017, IBA controlled net assets of $1.33 billion, mostly in the form of loans for homeownership to Indigenous individuals and families. However, it is arguably undercapitalised, preventing it from being as successful as it might otherwise be. The success of the ILSC has been limited by governments winding back its Indigenous governance arrangements and reducing its statutory independence, as well as by poor investment decisions by its board. The ABA received $338 million in 2017–18 and at 30 June 2018, the net assets of the ABA were $814.2 million. However, the ABA's success has also been limited, in its case by the lack of Indigenous autonomy and control in relation to the stream of royalty equivalents derived from mining on Indigenous land in

---

[153] Unpublished research.
[154] SCRGSP, 2017, '2017 Indigenous Expenditure Report', *op cit.*
[155] The Auditor General, 2018, *The implementation and performance of the Cashless Debit Card Trial, Department of Social Services* (Auditor-General Report No.1 2018–19), pp. 18, 43.
[156] For example, see The Auditor General, *ibid.*; J. Hunt, 2017, *The Cashless Debit Card trial evaluation: A short review* (CAEPR Topical Issue No. 1/2017), Centre for Aboriginal Economic Policy Research, ANU, Canberra; E. Klein and S. Razi, 2018, 'Contemporary Tools of Dispossession: The Cashless Debit Card Trial in the East Kimberley', *Journal of Australian Political Economy*, 82, pp. 84–106.
[157] This paragraph draws on a currently unpublished conference paper: M. Dillon, 2018, 'Unmet potential: Indigenous capital funds and self-determination'. The paper was delivered at workshop on the history of self-determination, sponsored by the Academy of the Social Sciences in Australia on 11–12 October 2018 in Canberra.

the Northern Territory, with the Commonwealth Minister for Indigenous Affairs assuming greater control of funds over time.

If regional development is to take place, significant expenditure will need to occur. This will necessarily be redistributive or reparative in the short term at least, reallocating public funds between the Indigenous and non-Indigenous sectors of the economy, noting of course that expenditure on Indigenous programs tends to flow back to non-Indigenous people due to the asymmetric structure of the economy.[158] Infrastructure backlogs such as that for remote Indigenous housing will require extraordinary levels of funding to address. Large-scale reparations may be necessary to achieve socioeconomic justice.

Yet government expenditure alone is not enough – it matters what the money is spent on, and how it is governed. Funding decisions will need to be devolved to the local level to enable comparative advantages in land and resource management and customary knowledge to be utilised effectively by Indigenous groups. Furthermore, Indigenous governance of mainline government programs that target or disproportionately affect Indigenous people is necessary to ensure that those programs are most effective, or at least are not actively harmful.

Conclusion

Linking remote Indigenous communities with regional development will require a greater adoption of key articles in the UN Declaration on the Rights of Indigenous Peoples. There are calls for reform to constitutionally guarantee the empowerment of Indigenous Australians in all their diversity with a 'Voice' to parliament. Such representation is of crucial importance to demographically small, geographically isolated and culturally distinct Indigenous communities in remote areas as well as to socioeconomically diverse and geographically dispersed Indigenous peoples in the cities and regions. Representation will also require the empowerment of Indigenous communities with appropriate forms of governance for development. However, political representation will not be sufficient to stimulate regional development without significant economic resources. Redistribution will be of crucial importance to meet deep historical infrastructure deficits that seem almost intractable under current forms of fiscal federalism; as well as to deliver social and environmental justice compensation for loss of native title rights and interests and to deliver financial capital for development purposes.

In the final analysis, economic development will be frustrated without increased political sovereignty. However, political self-determination will be compromised without fiscal independence. Both political independence and economic development need to advance together for Indigenous communities to be linked with sustained regional development.

---

[158] N. Stoeckl, M. Esparon, M. Farr, A. Delisle and O. Stanley, 2014, 'The great asymmetric divide: An empirical investigation of the link between indigenous and non-indigenous economic systems in Northern Australia', *Papers in Regional Science*, 93(4), pp. 783–801.

CONTACT US

Centre for Aboriginal Economic Policy Research
Research School of Social Sciences
ANU College of Arts & Social Sciences

Copland Building #24
The Australian National University
Canberra ACT 0200
Australia

T   +61 2 6125 0587
W   caepr.cass.anu.edu.au