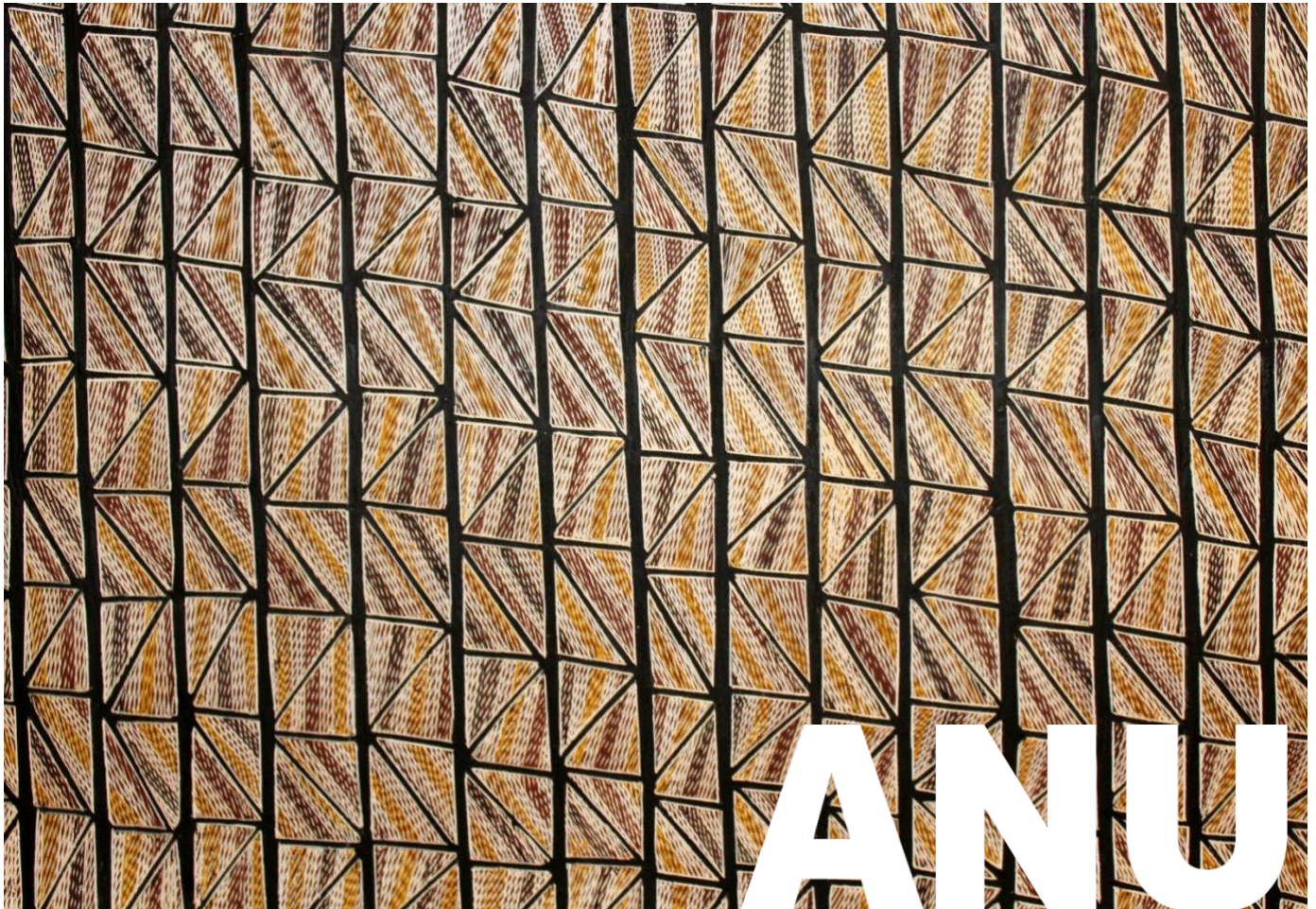




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THE NEW POLICY ARCHITECTURE
FOR CLOSING THE GAP: INNOVATION
AND REGRESSION

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Aboriginal Economic
Policy Research
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The new policy architecture for Closing the Gap: Innovation and regression

M. C. Dillon

Abstract

This paper describes the core elements of the new policy architecture for Closing the Gap set out in the National Partnership on Closing the Gap finalised in mid-2020. These issues are significant as Closing the Gap is the central pillar in government policy relating to Indigenous affairs. It outlines the genesis of the new arrangements and considers the ramifications of the adoption of shared decision-making and codesign processes in its development and implementation. The paper explicitly identifies and considers a series of risks to the successful implementation of the new policy architecture, and suggests a series of further reforms that would minimise the likelihood of failure.

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Acronyms

ACCO	Aboriginal Community Controlled Organisation
ANU	Australian National University
ATSIC	Aboriginal and Torres Strait Islander Commission
CAEPR	Centre for Aboriginal Economic Policy Research
CEO	Chief Executive Officer
COAG	Council of Australian Governments
GDP	Gross Domestic Product
LNP	Liberal-National Party
NIAA	National Indigenous Australians Agency
NIRA	National Indigenous Reform Agreement
NPA	National Partnership Agreement
PMC	Department of Prime Minister and Cabinet

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Introduction

In July 2020, a pathbreaking new national agreement established an ambitious new policy framework to address the relationship between Australian governments at all levels and a coalition of the peak Indigenous service delivery bodies across the nation. This paper critically examines the policy architecture for closing the gap established by this new framework agreement.

The notion of seeking to ‘close the gap’ attracts almost universal support, but is not entirely uncontested. Critics have identified the concomitant implicit assumption that all Indigenous people and communities aspire to similar lifestyles as the mainstream. For example, Altman (2009) argued persuasively that the Closing the Gap process places too much emphasis on statistical equality between Indigenous and non-Indigenous Australians, while under-emphasising the importance of diversity and cultural difference. The targets are notionally based on diminishing statistical gaps between the mainstream and Indigenous populations, but have various shortcomings; for example, they do not seek to address differences in levels of disadvantage within those populations (whether based on income, residential location, or other criteria)¹, and in many cases they merely seek to close part of the statistical gaps that exist within the timeframe identified in the target. Moreover, the recently introduced framework has shifted noticeably towards framing targets in absolute terms rather than comparative or relative terms, leaving open the possibility of the targets being met while substantial disparities continue to exist or even grow worse.

These more technical issues foreshadow the necessity for very real political choices in the future – choices which are entwined with ongoing demographic changes shaping the Indigenous population arising from increasing levels of self-identification (Markham & Biddle, 2017). These demographic shifts have the potential over time to exacerbate differences in levels of disadvantage within Indigenous populations, and to also effectively and significantly change the size and composition of the denominator used to calculate the various targets. It is worth noting nevertheless that even if all Closing the Gap targets were to be met, the implicit timeframe for ‘overcoming Indigenous disadvantage’ will extend over decades.²

The paper has five core sections. The first section focuses on the genesis of the new Closing the Gap framework, and its key elements. In particular, it spells out why the new framework is both a radical innovation and a retrograde step.

The second section deals with key elements of the new framework’s development, namely the process of codesign adopted by the Australian Government, and the existence of significant disparities in power between the parties to that codesign process.

The third section identifies seven significant risks to the success of the new framework that flow from the way the new framework has been developed.

The fourth section looks forward, and identifies five further policy reforms that could minimise the risk of failure.

Finally, a concluding section seeks to summarise what is at stake both for the nation and Indigenous people.

¹ However, the current *National Agreement on Closing the Gap* (Australian Government, 2020) does acknowledge that these issues exist and deserve attention; see clause 93.

² While 13 of the 17 targets agreed to date specify a 10-year horizon to 2031, many are not framed in terms of closing a gap with mainstream social indicators, but instead merely specify absolute reductions (or increases in relevant social indicators). In many cases, it is apparent that closing the gap with mainstream indicators within five decades will be optimistic. To take just one example, target 10 is to reduce the rate of Indigenous adult incarceration by 15% from a base of 2077 per 100 000 to 1765 per 100 000 by 2031. The mainstream rate is less than 200 per 100 000. If the current target is achieved, and progress continues at the same rate, it will take at least five further decades to achieve parity.

Genesis and key elements

The first iteration of Closing the Gap, from 2008 to 2020, was laid out in the Council of Australian Governments (COAG) National Indigenous Reform Agreement (NIRA). This in turn was established as part of a broader set of federal financial reforms put in place by the newly elected Labor Government in 2008. At an ideological level, the NIRA had been the Rudd Government's response to the punitive framing of Indigenous policy by the Howard Government. In particular, the Rudd Government sought to move beyond the Northern Territory Intervention³ and reverse the tight budgets of the Howard Government across the Indigenous policy domain. This in turn meant that the NIRA engendered ideological hostility from the subsequent Liberal-National Party (LNP) Government, evidenced by the decisions to terminate and defund almost all the national partnerships established under the NIRA (Dillon, 2021a).

Given their ideological perspective, the strategic challenge facing the LNP Government in office since 2013 was how to reframe the Closing the Gap targets and their underlying resourcing without antagonising Indigenous interests and the more liberal elements of its existing political constituency.

Its initial response was to seek to rely on an emerging discourse within academia, Indigenous policy circles and First Nations communities that sought to emphasise and privilege strengths-based narratives and discourses over those focused on disadvantage (Fforde et al., 2013; Sullivan, 2016). To adherents of this critique, framing policy around disadvantage was seen as linking Indigenous citizens inextricably with failure rather than success, and thus was seen as a form of blaming the victim. For example, the Government's 2017 Discussion Paper on the next phase of Closing the Gap (Australian Government Department of Prime Minister and Cabinet (PMC), 2017) gives strong emphasis to what it terms a strengths-based approach as a key organising theme.⁴ Yet while referencing partnership with Indigenous people and giving them 'a say', the paper still makes clear that the intention is that COAG and governments will decide the final refreshed targets.

By early 2018, the Australian Government had decided that merely relying on framing the Closing the Gap refresh on strengths-based approaches would not be a politically viable strategy. Consequently, it decided to substantially strengthen the emphasis on partnership and joint decision-making within the refresh of the Closing the Gap framework. This eventually led to the partnership with the Coalition of Peaks and the codesign process used to negotiate the new National Agreement. It seems that the Government's calculus was that anything less than an overt partnership and codesign with Indigenous interests with credibility and legitimacy would not ensure the widespread Indigenous support required to redesign and reframe the Closing the Gap policy architecture and thus tie off a loose policy end at an acceptable political and financial cost.

Thus, in February 2018, the Commonwealth convened a special gathering of 64 Indigenous representatives, selected by all Australian governments, to discuss the process for refreshing the Closing the Gap targets – many of which were time limited and about to expire – and future policy priorities.⁵ The Indigenous representatives advocated a greater role for the Indigenous community in program design and implementation, called on governments to partner with Indigenous interests, and to clarify accountabilities between levels of government. They also agreed 'that existing targets should be retained and critically reviewed' and laid out a series of new priority areas that also required targets (Special Gathering, 2018).

³ The majority of academic analysis of the Labor Government's policy response takes the view that Labor was largely unsuccessful in disassociating itself from the Northern Territory Intervention.

⁴ As the Discussion Paper notes: 'A Strength Based Approach. While continuing to recognise the gaps in key indicators and the need to do better, it is important to highlight the many achievements of Aboriginal and Torres Strait Islander Peoples.' (PMC, 2017, p. 4).

⁵ There is a useful summary history of the closing the gap process on the Closing the Gap website: <https://www.closingthegap.gov.au/history>

In October 2018, a group of 14 community-controlled Aboriginal and Torres Strait Islander peak organisations wrote to the Prime Minister seeking direct and active input into the Closing the Gap refresh process and its ongoing implementation. This group comprised the original members of the Coalition of Aboriginal and Torres Strait Islander Peak Organisations (Coalition of Peaks) which formed in January–March 2019.⁶ When their correspondence elicited no response, they went to the media. This media coverage in turn led to a meeting with the Prime Minister and his agreement to put the proposal to COAG (Coalition of Peaks, 2021).

At its meeting on December 12, 2018, COAG agreed to establish a formal partnership with Indigenous Australians to refresh the Closing the Gap framework:

COAG is...committed to ensuring that the finalisation of targets and implementation of the Closing the Gap framework occurs through a genuine, formal partnership between the Commonwealth, state and territory governments and Indigenous Australians through their representatives...

...Aboriginal and Torres Strait Islander peoples must play an integral part in the making of the decisions that affect their lives – this is critical to closing the gap...

...Governments and Aboriginal and Torres Strait Islander representatives will share ownership of, and responsibility for, a jointly agreed framework and targets and ongoing monitoring of the Closing the Gap agenda...

...The framework and draft targets will be finalised through this [Joint] Council by mid-2019, ahead of endorsement by COAG. A review of the National Indigenous Reform Agreement will be informed by the framework (COAG, 2018).

On March 22, 2019, COAG and its constituent governments entered into a formal *Partnership Agreement on Closing the Gap* (COAG, 2019). This agreement established the Joint Council of Australian Governments and Aboriginal and Torres Strait Islander People on Closing the Gap (clauses 17–25) to oversight the refresh of the closing the gap targets. The Joint Council was co-chaired by the Minister for Indigenous Australians and the Chief Executive Officer (CEO) of the Coalition of Peaks.

On July 27, 2020 the *National Agreement on Closing the Gap* (Australian Government, 2020) came into effect after its formal endorsement by the parties.⁷ The new agreement reframes the arrangements formerly in place under NIRA. In particular, it provides for a set of new targets as well as four new ‘priority reforms’ designed to ‘accelerate improvements in the lives of Aboriginal and Torres Strait Islander people’ (Australian Government, 2020: clause 25).

The first priority reform creates formal framework for shared decision making between governments and Indigenous interests at both national, and state and territory levels. The second priority reform focuses on building the community-controlled sector; the third priority reform commits governments to ‘systemic and structural transformation of mainstream government organisations to improve accountability’ and to respond to Indigenous needs. The fourth priority reform provides for shared access to data and information at regional levels. Additionally, the national agreement provides for 16 (plus 4) refreshed socioeconomic targets aimed at closing the gap between Indigenous and mainstream citizens across key social indicators.⁸ The Productivity Commission will maintain a publicly accessible dashboard monitoring progress on the targets. Finally, the

⁶ Coalition of Peaks, 2021.

⁷ This was not a COAG agreement as by this point COAG had been replaced by the minimalist and more flexible National Cabinet policy architecture (PMC, 2020).

⁸ The National Agreement provides for the development of four additional targets in the 12 months following the signature of the agreement (clause 87). The Agreement took effect on July 27, 2020 (clause 13). As of September 23, 2021, only one additional target had been added to the Productivity Commission Closing the Gap dashboard.

National Agreement provides for a series of jurisdictional implementation plans to be developed within 12 months of the commencement of the Agreement (clause 111) which will be monitored by the Joint Council established to oversight the framework.

The new policy framework for Closing the Gap is simultaneously a radical innovation and a retrograde step. The innovation embedded in the four Priority Reforms, if implemented, hold out the prospect of structurally inclusive improvements in relations between Indigenous interests and governments. However, the targets have been reconfigured as less ambitious, and in many respects are framed in terms of aspirations for absolute improvements rather than comparative improvements, thus arguably undermining the very notion of closing the gap.

On February 12, 2021, the Australian Government announced (Wyatt, 2021a) that it would release its implementation plan under the National Agreement on Closing the Gap in July 2021, and publish its annual Closing the Gap statement in the spring session of Parliament annually thereafter.

Codesign and unequal bargaining power

While it is unclear what level of ‘shared decision-making’ Indigenous interests will have in these processes, the tenor of the National Agreement is such as to expect that there will be substantive Indigenous involvement. While the primary point of Indigenous involvement will be in service delivery by Aboriginal community-controlled organisations (ACCOs), the focus of the National Agreement on Closing the Gap on priority reforms that extend into mainstream service delivery, and the lack of specificity in the extent to which states, territories and the Australian Government will shift to service delivery by ACCOs leaves significant scope for ongoing negotiation over the specifics of the collaboration to emerge from the National Agreement.

In addition to the previously identified implications flowing from the Agreement, developments in the wider policy environment will also impact the outcomes flowing from the institutional changes established by the National Partnership. One development of particular significance has been the clear pivot in recent years towards codesign (and other forms of collaborative governance) in governments’ approach to policy development in relation to Indigenous Australians. We see this at both the national, and state and territory levels. Nationally, the work currently underway to devise an Indigenous Voice, and the negotiation of the National Agreement on Closing the Gap are both widely described and justified as codesign processes (Dillon, 2021b). The eventual establishment of a national Indigenous Voice, whether constitutionally entrenched or merely legislated, will inevitably increase the pressure on governments to engage in ongoing codesign.

Notwithstanding the steady growth in the policy and advocacy capability of the Coalition of Peaks and its constituent members over recent years, the blunt reality is that compared to the bureaucratic heft and resources available to governments, the Coalition of Peaks’ policy development capabilities are minimal and underdeveloped. Compared to the advocacy capabilities available to established corporate interests through bodies such as the Business Council of Australia, the Minerals Council of Australia, the National Farmers Federation and state and territory chambers of commerce, the Coalition of Peaks has weaker policy advocacy capabilities. Moreover, the Coalition of Peaks has limited independent funding, and is substantially reliant on government funding and thus goodwill. This reflects longstanding and very stark power imbalances between mainstream and Indigenous institutions and interests (Dodson, 1996; Donaldson, 2017; Sakinofsky et al., 2019; Stokes, 2002; Tully, 2000).⁹

⁹ There is an extensive literature across the social sciences on the definition of power. Mutch (2011, pp. 41–48) provides a useful overview of the literature.

The existence of continuing significant power imbalances between governments and Indigenous interests takes on a new significance in an era of greater government reliance on collaborative partnerships, shared decision-making and codesign. The 'pivot to codesign' will impact the likelihood that the new architecture for closing the gap delivers positive results. In particular, while there is near universal agreement (at least at the level of rhetoric) that shared decision-making and codesign are worth pursuing in the next phase of Closing the Gap, whether governments can ensure that the sharing of decision-making power is equitable when they clearly have a potential conflict of interest is of major concern.¹⁰ Similarly, whether Indigenous groups can ensure that their comparatively weak negotiating leverage vis-à-vis governments do not negate the benefits of the shared decision-making process are questions that require explicit consideration.

The academic literature on these issues is comparatively sparse. It overlaps to some extent with the literature on the risks of codesign considered in Dillon (2021b). It abuts the enormous literature on negotiation across the social sciences. Purdy (2012) develops a useful framework for assessing power in collaborative contexts, distinguishing three sources of power (formal authority, resources,¹¹ and discursive legitimacy) and four elements of the collaborative process (participants, process, design, and content) that are potentially arenas for the exercise of one or more of those types of power. The significance of this framework is to clarify that power is not unidimensional, and its potential for effective exercise is context specific. Moreover, where collaborative negotiation is underway, power is also relational (Mutch, 2011, p. 45), and inherently temporally fluid insofar as it will wax and wane over time as internal and external dynamics alter.¹²

The new policy architecture for Closing the Gap thus throws up numerous risks. Moreover, the existence of a deep power imbalance between governments and Indigenous interests heightens the likelihood of those risks occurring. Two risks in particular flow from the new codesign arrangements: the potential for co-optation of Indigenous organisations, and a concomitant exit of Indigenous interests from the public sphere as they focus their efforts on negotiations within state institutions.

Policy risks and challenges

The Coalition of Peaks successfully argued for the inclusion of four overarching priority structural reforms in the National Agreement. While each of the proposed reforms can be considered, assessed, and has merit on its own terms, it is clear that they have been designed to operate synergistically, and comprise a single mega-reform. Formal partnerships and shared decision-making between governments and First Nations interests will work better with a strong community-controlled sector, with mainstream agencies that are explicitly focused on being responsive to Indigenous people's needs, and that are informed by much improved and accessible regional data. Taken together, the priority reforms amount to an agreement for the structural or embedded inclusion of Indigenous interests across the panoply of Indigenous related service delivery arrangements operating across the nation. They are a formal rejection of ongoing exclusion of Indigenous interests by governments at all levels of the Australian federation.

Obtaining this acknowledgment and recognition, and the associated commitment to 'priority reforms' was an extraordinary and unprecedented achievement by the Coalition of Peaks. Indeed, if successful over the medium to longer term, these structural reforms would make the need for Closing the Gap targets redundant as Indigenous interests would exercise real influence within policy formulation circles akin to that exercised by

¹⁰ A further issue raised by one of my referees is that codesign presents potential internal threats to the internal lines of control and accountability within government agencies, thus increasing the incentive to limit it to a rhetorical as opposed to a substantive basis.

¹¹ Purdy (2012, p. 410) makes clear that resources encompass both tangibles and intangibles.

¹² The discussion on the theoretical literature on the political settlement approach to analysing structural outcomes in Westbury & Dillon (2019) is relevant to these issues.

major corporations and peak interest groups such as the Minerals Council of Australia, the National Farmers Federation and the Business Council of Australia.

Notwithstanding their achievement in obtaining a formal commitment to priority reforms, Indigenous interests cannot assume that such recognition will translate into tangible and sustained political influence, and thus ensure the success of the new Closing the Gap policy framework. There are at least seven potential and overlapping risks that could undermine that objective.

Implementation failure risk

Governments have a record of failing to effectively implement policy initiatives; the reasons are multiple, and potentially complex. They include overly optimistic expectations, the exigencies of dispersed governance and inadequate collaborative policymaking, and the impact of the political cycle (Hudson et al., 2019; Shergold, 2015). This conceptual typology might be summarised more succinctly as shortfalls in political and bureaucratic capability. Implementation failure can also result when governments adopt a deliberate strategy of rhetorical commitment while simultaneously pursuing a policy of substantive inaction. This latter eventuality is more likely in contexts such as Closing the Gap where governments are dealing with interest groups subject to exclusionary policies.

Reform reversal risk

Where Indigenous interests are engaged in formal or informal negotiation (as is common in virtually all policy development and advocacy settings) and manage to overcome structurally embedded power imbalances and negotiate positive outcomes, they will likely face ongoing pushback. The temporal fluidity of power dynamics opens opportunities for those non-Indigenous interests who are, or perceive themselves to be, adversely affected to seek to reimpose the *status quo ante*. As Brugnach et al. (2017, p. 28) note:

...to the degree that Indigenous communities are empowered, more resistance and conflicts can be expected...

Perhaps the archetypical example in Australian public policy contexts is the experience of the Aboriginal and Torres Strait Islander Commission (ATSIC), and more generally, the experience with a series of consultative mechanisms designed to facilitate the communication of Indigenous interests' views to governments. Over the past half century, each of the mechanisms established by the Australian Government for this task (the National Aboriginal Consultative Committee, the National Aboriginal Conference, ATSIC, the National Congress of Australia's First Peoples, and most recently the Prime Minister's Indigenous Advisory Council) have been abolished or allowed to lapse when the advice provided did not accord with the perspectives of the government of the day.¹³

The lesson from this experience is that Indigenous interests should simultaneously invest significant advocacy resources in protecting previously won gains (such as those included in the National Agreement on Closing the Gap) as well as pushing for further reform. Accordingly, it will be important for Indigenous interests that governments are held rigorously to their commitments in the National Agreement as once commitments fall into disuse, they will be difficult to revive.¹⁴

¹³ See Westbury & Dillon (2019) for a detailed discussion of the background to ATSIC's demise.

¹⁴ This point is reinforced by the fact that the National Agreement is not legally enforceable (see clause 144).

Co-option risk

The existence of power imbalances between governments and Indigenous interests, and the use of collaborative policy development processes such as codesign, shared decision-making, and negotiation creates opportunities for the use of co-optive tactics by governments. Such tactics aim to blunt the political pressure of Indigenous advocacy, and thus minimise the political concessions required of governments.

In a perceptive and prescient assessment of the potential for inclusion of various groups within Australian democracy, Dryzek (2002) argues that the inclusionary status of an interest group is a function of alignment between what he terms 'core state imperatives', a dynamic set of functions which in effect define the nature of the state, and the activities of the interest group. He distinguished between the inclusion of an interest group within the state and the interest group operating solely within the public sphere ('the politicised aspect of civil society').¹⁵ Where an interest group (such as Indigenous interests) cannot attach its agenda to a core state imperative, then Dryzek (2002, p. 118) argues that

...inclusion can only be conditional, as the group's influence will be confined to the periphery of the state. The group will always lose when it encounters the core, and so face frustration and co-option if and when such an encounter occurs.

Dryzek (2002, p. 144) notes in a footnote that co-option occurs when a decision-making structure absorbs individuals or groups while denying them real influence. Dryzek is not the only analyst to identify the propensity for powerful interests to utilise co-option (or co-optation¹⁶) as a mechanism to manage less powerful interests. Colonial states have a long history of choosing to utilise forms of indirect governance where they had an interest in deploying limited governing resources. Indirect governance is an institutional form that has persisted into the present (Naseemullah & Staniland, 2016). Co-option is far from unknown in collaborative contests involving power imbalances across both domestic and international policy domains (Baur & Schmitz, 2012; Kruck & Zangle, 2019; Purdy, 2012).

Dryzek goes on to note that some core Indigenous interests such as native title are seen by pastoralists and miners as in conflict with core state imperatives,¹⁷ while noting that there is potential for the legitimisation imperative¹⁸ of the state to expand to encompass reconciliation with Indigenous peoples. Dryzek sums up by noting that Indigenous inclusion within the state has been partial, contested, and sometimes resisted from within the Indigenous community (Dryzek, 2002, pp. 130–131).

One implication of Dryzek's analysis for our purposes is to observe that Indigenous interests have not yet been able to successfully attach themselves to a core state imperative. Yet, as the public debate regarding the position of Indigenous citizens within the Australian polity has evolved, the segment of the wider community sympathetic to Indigenous aspirations appears to have grown, while the levels of actual and potential concern amongst community segments concerned about issues such as sovereignty, treaties, and constitutional recognition of a Voice to Parliament has deepened. In Dryzek's terms, those mainstream interests focused on narrow conceptions of core state imperatives such as national sovereignty and parliamentary supremacy maintain considerable ability to block reforms which aim to reconceptualise these state imperatives in broad or inclusive terms.

¹⁵ Dryzek's concept of inclusion is thus related to, but not identical to, the concept of inclusion used in the literature on exclusion, and which is defined in more structural terms.

¹⁶ Both terms are prevalent in the literature and are used interchangeably in this paper.

¹⁷ While this was correct in 2002, it is arguably no longer the case in 2021.

¹⁸ Dryzek (2002, p. 131) describes the legitimisation imperative as relating to the need for the nation's political economy to be seen to be legitimate both in the eyes of the nation's population and in the eyes of the world at large.

While there are grounds for optimism on prospects for movement over the coming decades on high-level symbolic issues, the prospects for substantive reform on more tangible issues such as Indigenous over-representation in the prison system, out-of-home care, and deep-seated economic and social disadvantage are low, as to date they have been unable to gain the requisite political and policy momentum and impetus within political and policy institutional settings (Productivity Commission, 2018, 2021). Indigenous exclusion continues in relation to the nation's institutional frameworks (Westbury & Dillon, 2019).¹⁹

There is a second implication of Dryzek's analysis on co-option. As Kruck & Zangl (2019) observe, strategic co-optation is a form of cooperation between unequals, where the more powerful party trades institutional privileges for the less powerful party's institutional support with the aim of stabilising the institutional order.²⁰ This exchange is often an adjustment in response to shifts in the distribution of power between the cooperating parties. Moreover, while co-optation confers benefits on both parties, the likelihood is that the more powerful party (the co-optor) will maintain its dominant position vis-à-vis the less powerful partner (the co-optee). While the shape of the co-optation relationship is stable, the extent or significance of privileges offered, and the support provided in return can vary significantly (Kruck & Zangl, 2019, p. 322). The bottom line is that while co-option of a weaker party by a dominant party almost always advantages the dominant party, scope exists for the weaker party to improve their outcomes. Where they choose to engage with the state, Indigenous interests must invest in strengthening their bargaining power vis-à-vis governments if they wish to accrue sustained structurally inclusive benefits over time.

Wider community views on issues central to Indigenous aspirations have shifted over time, albeit not uniformly (Rowse & Pertierra, 2019). For example, the prevalence of views across the Australian community opposing government assistance to Indigenous citizens and land rights has fallen over the past three decades, while support for constitutional recognition is much stronger amongst younger Australians (Gray & Sanders, 2015). Consequently, the discursive legitimacy²¹ of Indigenous interests appears to have strengthened. The emergence of increased support for Indigenous concerns amongst younger Australians suggests governments' formal authority vis-à-vis Indigenous interests may be weakening, with the consequence that the power imbalance between governments and Indigenous interests will likely narrow, albeit slowly and at the margin. Simultaneously, the views of the Indigenous leadership have shifted from focusing primarily on activism and advocacy within what Dryzek refers to as the public sphere, towards privileging approaches based on direct engagement with the state. This is reflected in the fact that the two major political issues in relation to First Nations citizens' place within the nation are the debates around constitutional recognition of a Voice to Parliament and the frameworks around closing the gap; both are overwhelmingly examples of Indigenous engagement with the state rather than activism in the public sphere.²²

In relation to governments' policy approaches towards First Nations peoples, we can hypothesise that as more overt government tactics of policy agenda management such as 'not hearing', 'not seeing' and implicit discrimination have become less acceptable in the wider community, governments have sought to appear more open to engaging with Indigenous interests. However, this does not mean they have changed their underlying approach, nor does it mean they are conceding substantive ground. This leads directly to an increased likelihood for the use of co-option by governments as a tool for managing contentious issues in Indigenous

¹⁹ See Sanders (2021) for an alternative view in relation to the significance of structural exclusion.

²⁰ One implication of this definition is that the adoption of a strategy of engaging in co-option is not necessarily ethically tainted, and indeed is often a legitimate and constructive strategy for both governments and Indigenous interests. Where it does become more problematic is where the privileges offered by the dominant party in return for support as part of the co-optive process are personal and/or secret rather than policy related, communal and public. Whether such 'problematic' instances of co-option amount to corruption is a matter beyond the scope of this paper.

²¹ To utilise one of the sources of relative power identified by Purdy (2012) and discussed above.

²² As Dryzek (2002, p. 130) notes, this is not an exclusive distinction. Even though the balance of Indigenous pressure and activism has shifted from the public sphere to engaging with the state, the debate still spans both domains, and can shift as circumstances change.

policy development processes. Indigenous interests will need to maintain a robust advocacy presence in the public sphere as well as in the government sphere in order to respond to these structural challenges.

Risk of ‘commitment dilution’

The convoluted bureaucratic processes, technical complexity and lack of clarity regarding inter-jurisdictional responsibilities embedded within the National Agreement make a tactic of gradual dilution of the government commitments in the National Agreement feasible. In political and policy contexts characterised by poor transparency, and determined media management by governments, institutional and individual critics of poor government performance are unlikely to gain much traction, and where they do, they will be vulnerable to co-optive measures aimed at silencing dissent or moderating criticism. A particular challenge for Indigenous interests is that commitment dilution can apply to virtually any element included in the National Agreement, and the process is both silent and accumulative. The potential for regression is thus insidious and the only protection is eternal vigilance.

There is already some evidence of this process of ‘commitment dilution’ occurring. The Productivity Commission was tasked in the National Agreement with developing and maintaining a dashboard to inform the reporting of progress on Closing the Gap (Australian Government, 2020, para. 116). In the current version of the dashboard, the Commission treats the four priority reforms as if they are targets that can be measured quantitatively, whereas as set out in the National Agreement they involve and require extensive and sustained qualitative changes. This is an important issue since, as noted above, closing the gap – or addressing Indigenous disadvantage – will require more than the allocation of funding (important as that is). The Priority Reforms are the core elements of that policy agenda, and need to be monitored and assessed going forward on that basis.

So, for example, in relation to Priority Reform Three (outlined in clauses 58–68 of the National Agreement) which involves six elements applicable to all mainstream agencies in eight jurisdictions, the Productivity Commission appears to have simplified this to a single target which is partial and misleading, and four quantitative output indicators and two quantitative outcome indicators, which arguably do not reflect (or do not adequately reflect) the commitments made by governments. Similar critiques can be mounted for the other Priority Reforms.²³ The risk here is that the ambition and sophistication of the policy and institutional transformations demanded by the National Agreement will, as a result of the Productivity Commission’s quantification focus, be transformed into meaninglessness and bureaucratic sludge.

The risk of compromised oversight

The Productivity Commission’s role in relation to the information repository is set out in clauses 116–117, and in relation to a triennial ‘comprehensive review’ in clauses 121–124 of the National Agreement.

The National Agreement provides for triennial reviews of progress by the Productivity Commission and a supplementary Indigenous-led review focused on capturing Indigenous perspectives from beyond the Coalition of Peaks. Importantly, the Indigenous-led review is intended to bring into focus the lived experience of Indigenous people in relation to the closing the gap measures. Unfortunately, there is no guarantee that either of these reviews will be truly independent of the Joint Council and the parties administering the National Agreement. In particular, the Productivity Commission appears to be conflicted in relation to its triennial reviews.

²³ The Productivity Commission dashboard is labelled as a ‘beta version’ (i.e. subject to further revision and testing) and it notes that data are not yet available for the four priority reforms. The framing of the proposed reporting on the priority reforms has no explicit caveats. (See Productivity Commission, 2021.)

The Minister (Wyatt, 2021b) has argued in a media release on closing the gap data accessibility that the National Agreement ensures independent oversight and accountability:

...the Productivity Commission will play a key role in keeping all parties to the National Agreement accountable. 'Having baseline data available, adding to it as further data on targets and priority reforms becomes available, and adding data from jurisdictions' annual reports will ensure progress on all outcomes can be openly tracked', Minister Wyatt said.

'The independent reporting from the Productivity Commission and the Aboriginal and Torres Strait Islander led reviews are important features of the National Agreement and we're pleased this information is more readily available to support this.'

The Productivity Commission undoubtedly has a range of technical capabilities relevant to measuring progress in closing the gap, and it is theoretically independent of the executive arm of government. The Agreement stipulates (clause 117) that the Productivity Commission has a role in working with the Joint Council (i.e. governments and the Coalition of Peaks) in developing the dashboard and annual data compilation report, and that the Joint Council will provide advice to the Treasurer on the terms of reference for the triennial reviews. This role undercuts the Commission's independence in two ways: by making the Commission part of the process it is then asked to review, and by confirming that the Productivity Commission's triennial reviews can be shaped by terms of reference, that are themselves influenced by the Joint Council.

The risk of inadequate funding

One of the most significant risks relates to the adequacy of funding to drive the requisite policy reforms and to reverse the current shortfalls in basic social and economic infrastructure for the most disadvantaged Indigenous citizens. Calculating the public investments required to close the Indigenous disadvantage gap should be straightforward and doing so should be common sense. The reality however, and the experience of the last 13 years, is that governments have not been prepared to commission an independent assessment of the cost of the Closing the Gap targets in place at any one time, at either the national or state and territory levels. In fact, they actively avoid the development of such estimates, whether for the four-year forward estimates period, the 10-year horizon adopted by NIRA, or the (implicit) half-century long horizon adopted by the refreshed framework in the National Agreement on Closing the Gap.²⁴

Nor have governments been prepared to estimate the larger and arguably more fundamental cost of overcoming Indigenous disadvantage entirely.²⁵ Given the rhetorical salience of Closing the Gap, the avoidance of discussion on financial costs – and benefits – is itself revealing of governments' intentions. In Dryzek's terms, they do not see closing the gap as a core state imperative.²⁶ In the absence of government initiative, Indigenous interests may find it useful to commission their own assessment of the total costs of entirely closing the gap in the social and economic circumstances of First Nations and mainstream citizens. Ideally, such an exercise would be funded independently of governments, perhaps with the assistance of the philanthropic sector.

²⁴ It is perhaps worth noting that the recently Australian Government's released Intergenerational Report (Australian Government Treasury, 2021) makes no reference to Indigenous citizens, nor to Closing the Gap. In a series of Indigenous Expenditure Reports, the Productivity Commission has from time to time sought to estimate the levels of Government expenditure allocated to Indigenous citizens. These merely quantify outlays and have a range of conceptual shortcomings such as measuring negative expenditures, citizen entitlements and not measuring tax expenditures.

²⁵ That is, closing the gap on key social and economic indicators entirely. Neither the NIRA framework, nor the current National Agreement on Closing the Gap framework, included targets framed to do this entirely.

²⁶ It is worth comparing governments' approach to the ultimate core state imperative, defence policy, where there are regular white papers and strategic policy updates canvassing policy priorities, a formal government commitment to investing 2% of Gross Domestic Product (GDP) by 2020–21, and a publicly available 10-year defence funding model and investment profile (Australian Government Department of Defence, 2020, pp. 53–54).

Without sustained articulation of the projected costs of addressing Indigenous disadvantage, governments will continue to underinvest. Moreover, the pressure to invest in addressing Indigenous disadvantage may incentivise governments to pursue more innovative non-financial policy measures aimed at reducing disparities. Not only do governments avoid costing the necessary policies, they also avoid costing the opportunity costs of inaction; that is, the costs of not closing the gap. At present, governments by and large avoid structural reform in favour of allocating a continuous stream of relatively miniscule programs, with a concomitant flurry of announcements. A running total of overall investments, set against a notional calculation or estimate of the overall level of required recurrent and capital funding, would begin the process of putting governments' modus operandi under pressure.

In the absence of such assessments, it is only possible to make approximate estimates of the necessary investments.

In relation to funding adequacy, the NIRA review provides one benchmark: it identifies that the level of financial investment allocated in National Partnership Agreements dedicated to closing the gap over the years 2008 to 2018 was between \$8.5 billion and \$16 billion.²⁷ This suggests that at a minimum, the refreshed iteration of Closing the Gap over the next decade should be investing in the order of \$10 billion over 10 years, over and above current allocations, to merely match the previous allocations. However, the targets are only partial and all involve long implicit timeframes to achieve parity. Further, there was no guarantee that the funding allocations in the original Closing the Gap framework would in fact close the gap, or even ensure that the partial targets were met. For example, the outstanding needs for remote housing alone have been estimated at more than \$9 billion for the decade 2018–2029 (Dillon, 2018). In relation to the refreshed housing target, it must be remembered that the estimated cost of meeting need for remote housing requires revision to take into account the fact that the new Closing the Gap housing target (target nine) is national in scope and extends beyond remote Australia. These estimates suggest that a considerably higher additional allocation – in the order of at least \$20 billion, and probably closer to \$40 billion, over the coming decade – will be required across all 16 (plus 4) targets if the policy framework is to be regarded as anywhere near meaningful.

Given that the calculation of a decade-long national investment benchmark, and monitoring of actual expenditures, will need to operate across nine jurisdictions, there will inevitably be a requirement for a robust coordination mechanism. The National Agreement gives this responsibility to the Joint Council, however, the lack of transparency in its operations, and the potential for conflict over the allocation of responsibilities suggests that this may well be a weak point in the new policy architecture.

Risk of an Indigenous capability deficit

A final risk is that Indigenous interests fail to sustain the capability to maintain ongoing pressure on governments to deliver on their priority reform commitments. The challenge here is that the architecture established by the National Agreement creates in effect 11 separate policy domains (the nine states, territories, and national government, plus local government, plus the Coalition of Peaks), each required to develop an Implementation Plan that will be updated from time to time (clauses 108–110 of the National Agreement), and each developing policies affecting Indigenous interests on an ongoing basis over both Indigenous and mainstream policy sectors.

In aiming to stay abreast of both new developments and the ongoing impact of existing policies and programs, the Coalition of Peaks is thus required to build and maintain an organisational capability to monitor the activities

²⁷ The figure of \$8.5 billion relates to Indigenous-specific National Partnership Agreements (NPAs), while the balance was allocated in mainstream NPAs that benefited both Indigenous and non-Indigenous citizens. See the appendix to the review (Australian Government National Indigenous Australians Agency (NIAA), 2020). The NIRA review sourced the data from the performance audit of NIRA by the ANAO (2019). Neither the NIRA review nor the ANAO tallied the figures.

of eight parliaments and hundreds of public sector agencies, while remaining attuned to the aspirations and activities of an increasingly diverse Indigenous sector encompassing community-based corporations, Indigenous businesses, and Indigenous advocacy interests. The challenge is clearly daunting.

Looking forward

What will the refreshed Closing the Gap process look like, going forward? And what should be the policy focus of governments and Indigenous interests in this new institutional phase?

An earlier article on the new National Agreement on Closing the Gap (Dillon, 2020) pointed to a number of the implications of the new Agreement:

- that Indigenous interests now had an opportunity for substantially more involvement in a range of key policy and service delivery areas
- the fact that the Australian Government had off-loaded significant policy and financial responsibility to the states and territories.
- that the capability of Indigenous interests to hold nine governments to account across 16 targets, to influence the development and ongoing appropriateness of jurisdictions' implementation plans, and to monitor the performance of governments against those implementation plans will be a substantial, complex and technically challenging ongoing task
- that matching the adequacy of governments' financial investments to the targets and policy priorities will be extraordinarily challenging.

The first three points above relate to policies as much as programs. That is, they relate to policy issues that potentially encompass both financial investment by governments, and the quality of policies implemented. It is worth remembering that closing the gap will require both policy commitment and the necessary funding to address key shortfalls in government services and social infrastructure for Indigenous citizens.

Having negotiated a comprehensive National Agreement on Closing the Gap involving all jurisdictions and a broadly representative²⁸ coalition of Indigenous peak bodies, the next phase of the policy development process will be crucial.

Most jurisdictions have recently published their implementation plans.²⁹ They comprise in total over 800 pages of information and adopt a range of approaches to laying out their plans. As this paper was being finalised, the parties to the National Agreement were still publishing their Implementation Plans. It is thus too early to undertake a critical assessment of the quality of the implementation plans. Ideally, implementation plans should be succinct and focused on setting out the policies, programs and actions, including information on funding, that jurisdictions intend to direct towards closing the gap.

In terms of funding, the amounts allocated do not appear to match the total funding allocated under the NIRA, the initial Closing the Gap policy architecture. The Commonwealth has announced funding in two tranches. In November 2020, governments announced around \$75 million over four years in funding for community-controlled organisations, of which \$46.5 million was from the Australian Government (Wyatt, 2020). In early August 2021, the Australian Government announced that it had 'committed more than \$1 billion in new measures to support to help achieve Closing the Gap outcomes' (Morrison & Wyatt, 2021). Of this amount,

²⁸ While the Coalition of Peaks comprises 26 peak bodies and over 50 organisations in all, their geographic footprint is uneven; e.g., Western Australia is under-represented with only one state peak. The membership is largely focused on service delivery, and is essentially self-selected. Nevertheless, there is little doubt that they represent a significant slice of Indigenous political and institutional interests. Whether they are representative of Indigenous citizens is perhaps less certain.

²⁹ Published implementation plans are available at <https://www.closingthegap.gov.au/>

some \$379 million relates to funding for compensation for the consequences of past child removal policies of the Commonwealth, a matter which is welcome and overdue, but for which there is no Closing the Gap target. A further \$100 million in health funding was a reallocation from existing appropriations. See Dillon (2021c) for a detailed critique. What is clear is that the Australian Government has no intention of matching the investment levels of the first decade of Closing the Gap, and while the level of state and territory investment is so far unclear (and may never be clear), it is apparent that it will not go anywhere near filling the gap left by the Australian Government decision to wind back the previous funding commitments.³⁰

The new National Agreement on Closing the Gap lays out a sophisticated, yet administratively and technically complex process of shared decision-making between Aboriginal interests represented by the Coalition of Peaks on the one hand and 10 'jurisdictions' on the other.³¹ These jurisdictions overlap to a degree, have different political leaderships and thus perspectives, utilise quite different administrative, budgetary and political decision-making systems, and have access to significant financial resources and expertise.

The Coalition of Peaks too encompasses over 50 different organisational members with differing levels of technical competence, internal stability, and experience in working with governments. Access to advocacy and policy research resources is limited and subject to informal constraints and controls by governments. Most significantly, the majority of member organisations of the Coalition of Peaks are service delivery organisations funded primarily by government, and thus potentially vulnerable to co-option via the threat of funding cuts. There is a clear power imbalance between the 10 jurisdictions and the Coalition of Peaks.

Under the new National Agreement, governments have committed to shared decision-making in relation to service delivery aimed at closing the gap in social and economic status between mainstream and Indigenous Australians. Crucially, the privileges offered by governments are diffuse and technically complex, while the support in response from the less powerful Indigenous interests has effectively been locked-in up front for the term of the National Agreement. This creates a clear incentive for governments, over time, to incrementally water down the privileges ostensibly committed (which we might summarise as 'shared decision-making in relation to policy related to service delivery').

There is little doubt that we are dealing with a complex set of co-optive relationships. Yet to succeed in sharing decision-making, governments will need to resist the temptation to use their superior resources to effectively blunt or negate the influence of Indigenous interests across a myriad decision points. Simultaneously, Indigenous interests will need to engage on multiple fronts with multiple agencies across each of 10 'jurisdictions'. Both of these imperatives involve a complex mix of politics, policy, resources and ideological commitment. They implicitly assume that both governments and Indigenous interests are able to and/or prepared to speak with a unified, consistent and coherent voice. Because they are extraordinarily ambitious aspirations, and, as detailed above, face multiple serious risks, the prospects of failure are exceedingly high. In order to minimise the possibility of such an eventuality, there is an exceedingly strong case for further institutional reforms. The list of potential reforms set out below is clearly not comprehensive, but there is little doubt that they would make the Closing the Gap policy architecture considerably stronger and more resilient.

Potential reforms

Given the absence to date of any independent assessment of the cost of meeting the Closing the Gap policy and target commitments agreed by all Australian governments, there would be merit in the Joint Council requesting the Treasurer to request the Productivity Commission to undertake **an assessment of the costs of**

³⁰ It is worth noting in this context that there has been an effective three-year hiatus in funding for Closing the Gap between the end of the NIRA national partnerships in 2018, and the recent funding announcements.

³¹ The tenth 'jurisdiction' refers to the Australian Local Government Association, which is a signatory to the National Agreement, but technically is a creature of each state and territory jurisdiction.

closing the gap through its normal Inquiry processes. This would allow the Commission to accept submissions from the public and any relevant interest groups.

Second, the reviews established by the National Agreement must **assess the substantive effectiveness of not only jurisdictions implementation plans, but their underlying level of commitment to closing the gap**. So it will be important to ensure that the triennial reviews by the Productivity Commission and the subsequent Indigenous-led review³² envisaged by the National Agreement (clauses 121–130) both assess the adequacy of the levels of investment (including mainstream program investments) allocated in meeting the specified targets, as well as the effectiveness of jurisdictions' implementation plans. In particular, given the different levels of disadvantage within First Nations populations (acknowledged in clause 93 of the National Agreement), it will be imperative that programs aimed at closing the gap are designed to allocate funds in ways that prioritise need and narrow inequalities within the Indigenous population.

Third, a related reform initiative available to Indigenous interests would be to **establish an Indigenous managed public spreadsheet of government investments in closing the gap**.³³ This could be based on real time tracking of public announcements of governments, and the provision of opportunities to governments to provide additional information. Given the importance of mainstream funding allocations to closing the gap, such an expenditure dashboard should seek to incorporate mainstream investments even if they involve elements of notional and transparent attribution. It would be desirable if governments were to be invited to comment on any estimates made to facilitate an accurate presentation of government investment levels. Such a database would facilitate comparison between jurisdictions across functional and sectoral areas, thus incentivizing jurisdictions to maximise their contributions.

Fourth, an obvious institutional reform would be to **establish a framework of much greater transparency around the shared decision-making processes foreshadowed in the National Agreement**. While governments are clearly disinclined to increase levels of transparency, Indigenous interests have some leverage to press for greater transparency. Apart from advocating for increased levels of transparency and the publication of both data and investment levels, Indigenous interests could insist that codesign processes are undertaken in the public domain and refuse to engage in secret processes. Apart from putting pressure on governments to deliver on their commitments, transparent negotiations will strengthen the legitimacy of negotiators within their own constituencies, and minimise the potential for governments to resort to tactics of unethical co-option.

The implementation of greater transparency would facilitate more accurate and nuanced media coverage which in turn would place greater pressure on governments to deliver on their commitments.

Of course, there are tactical arguments against identifying the cost of closing the gap, or committing to transparent shared decision making. The projected costs of closing the gap would be characterised as being extremely high, and would inevitably attract critics prepared to demonise Indigenous interests. Transparency is always difficult in practice. These risks require serious consideration.³⁴ Yet sustainable structural reform requires constant and ongoing pressure and the preparedness to advocate robustly. There is an advantage, and arguably an imperative, for First Nations interests to both engage with the state and advocate in the public sphere (to use Dryzek's terminology discussed above).

³² These proposed reviews appear to be designed to supplement the Productivity Commission reviews with assessment of the 'lived experiences of Aboriginal and Torres Strait Islander people and communities of the implementation of this Agreement' (clause 125).

³³ One of my referees brought to my attention that the Commonwealth initiated just such a database within the then Department of Families and Community Services following the abolition of ATSIC. The database was aimed at facilitation of a whole-of-government approach to Indigenous affairs. The initiative was shelved within a few years of its establishment.

³⁴ One approach would be to focus advocacy towards increasing the adoption of needs-based criteria in funding allocations across the board. Such an approach has considerable philosophical and indeed tactical appeal. However, it would face immense counter pressure, both within the Indigenous community, as well as from substantial elements within the political establishment that seek to signal concern and focus in relation to First Nations' issues and aspirations.

Fifth, it is clear that there is a need for **greater national coordination of the Closing the Gap process by the Australian Government**. The Australian Government has conflated two significant policy changes in the most recent reset of the Closing the Gap policy architecture. It has shifted substantive responsibility for large swathes of the Indigenous policy domain to the states and territories. This is a legitimate policy choice, albeit one that was neither inevitable nor necessary. Simultaneously, it has abrogated its responsibility to ensure a coordinated and nationally coherent, if not consistent, set of outcomes.

The reason that the Australian Government was granted concurrent functional responsibilities to legislate for Indigenous citizens in 1967 was because the states and territories were not fulfilling the responsibilities they were granted under the Constitution. Instead of adopting a national perspective to its role and responsibilities, the Commonwealth is adopting the role of just another jurisdiction willing to report on those elements covered by the targets that fall most directly to the Australian Government. It is taking minimal responsibility for the quality of the states and territories responses. The Australian Government is setting up a position where it can criticise the states for any failure to close the gap into the future, rather than seeing itself as responsible for the overall national outcome.

So, for example, there is no attempt by the Commonwealth to ensure that the states and territories are meeting their commitments under the National Agreement in terms of the content of their Implementation Plans, nor even an attempt to ensure consistency of reporting.

To sum up, the National Agreement on Closing the Gap involves a highly ambitious set of reforms based on the recognition by the parties to the agreement that addressing structural disadvantage and exclusion requires sustained institutional reform across the breadth of the service delivery system. These potential reforms would necessarily involve change and reform mainstream institutions, in particular, to the institutional underpinnings of policy development at state, territory and national levels. The normal prerequisite for institutional change of this magnitude is a shift in the underlying balance of political power within society.

It may well be the case that First Nations are gradually accruing increased political power within Australian society as their demographic, educational and economic heft within Australian society grows. It is far from clear however that such changes to the balance of power will occur soon enough to overcome the embedded capabilities of existing mainstream interests to veto the structural and institutional reforms envisaged in the new National Agreement. The five further policy reforms proposed above are aimed at increasing the likelihood that there is a shift in power relativities such that the institutional constraints to Indigenous exclusion can begin to be overcome within, and hopefully sooner than, the timeframes envisaged in the National Agreement.

Conclusion

Since 2008, Closing the Gap has been the nation's core policy framework for addressing the deep-seated and structurally embedded disadvantage of Indigenous citizens. It has, at a rhetorical level, had wide cross-party support within Australian parliaments, and represents our national aspiration to address the deep and enduring social and economic inequalities between mainstream (non-Indigenous) citizens and First Nations citizens.

The *National Agreement on Closing the Gap* commits all Australian governments to a fundamental shift to shared decision-making in relation to closing the gap. It seeks to address structural inequity by embedding inclusion of Indigenous interests across the panoply of service delivery arrangements operating across the nation. Obtaining these formal commitments was an extraordinary and unprecedented achievement by Indigenous interests represented by the Coalition of Peaks.

Nevertheless, substantial and deeply embedded power imbalance between governments and Indigenous interests continue. While measures to strengthen the capabilities available to Indigenous interests will be

important, there are strong grounds for concluding that without further reforms to reduce power imbalances and strengthening the pressure on governments to stay the course, the likelihood of the commitments made by governments in the new agreement being met is low.

Finally, it is important to recognise that while financial investment by governments in closing the gap is essential, it is not sufficient. Addressing structural disadvantage and exclusion requires sustained institutional reform across the breadth of the service delivery system, as well as to the institutional underpinnings of policy development at state, territory and national levels.

Whether Indigenous interests will be able to translate the gains negotiated in the National Agreement on Closing the Gap into tangible economic, social and cultural reforms will require persistence, unified vision and effective political advocacy, and the development of policy and oversight capabilities that to date have only existed within governments.

Given the complex policy development challenges involved, and the absence of a political constituency that is unable to be ignored or denied, governments are highly unlikely to implement the structural and target-specific policy reforms necessary, and allocate the financial resources required, to deliver on the commitments implicit in the Closing the Gap targets. That was the experience with the first iteration of Closing the Gap (Dillon, 2021a).

Should Australian governments fail to implement their commitments, deep-seated Indigenous disadvantage (McLachlan et al., 2013, pp. 84, 203–212) will likely persist across the nation well into the foreseeable future. Notwithstanding the Australian Government's pre-eminent responsibilities for the wellbeing of all Australian citizens, future national governments will likely seek to deflect criticism by pointing to the newly allocated responsibilities of the states and territories under the National Agreement, and to the fact that First Nations interests codesigned the refreshed policy architecture contained in that Agreement.

The nation appears to have moved beyond explicit and overt exclusion of First Nations interests in relation to Closing the Gap. Yet looking forward, it is far from clear that the nation will be prepared to implement the reforms it has formally signed up to, and accept substantive Indigenous involvement in policy and program development and oversight. The ongoing challenge is to ensure substantive and full inclusion of Indigenous interests as opposed to co-option and bureaucratic blame-shifting amongst our federated jurisdictions.

References

- Altman, J. (2009). *Beyond Closing the Gap: Valuing diversity in Indigenous Australia* (CAEPR Working Paper No. 54). Centre for Aboriginal Economic Policy Research, ANU.
- Australian Government (2020). *National Agreement on Closing the Gap July 2020*, Australian Government.
https://www.closingthegap.gov.au/sites/default/files/2021-03/national-agreement-ctg-mar-21_0.pdf
- Australian Government Department of Defence (2020). *2020 Defence strategic update*, Australian Government.
<https://www1.defence.gov.au/strategy-policy/strategic-update-2020>
- Australian Government National Indigenous Australians Agency (NIAA) (2020). *Lessons learned from the National Indigenous Reform Agreement*, FOI/1920/023/IR, released 23 November 2020, FOI Disclosure Log, NIAA.
<https://www.niaa.gov.au/foi/agency-foi-disclosure-logs>
- Australian Government Department of the Prime Minister and Cabinet (PMC) (2017). *Closing the Gap: The next phase* (Public discussion paper).
<https://apo.org.au/node/171236>
- Australian Government Department of the Prime Minister and Cabinet (PMC) (2020, June 2). COAG becomes National Cabinet [Media release].
<https://www.pmc.gov.au/news-centre/government/coag-becomes-national-cabinet>
- Australian Government Department of Treasury (2021). *2021 Intergenerational report: Australia over the next 40 years*, Australian Government.
<https://treasury.gov.au/publication/2021-intergenerational-report>
- Australian National Audit Office (ANAO) (2019). *Closing the gap* (Auditor-General Report No. 2 of 2018–19). ANAO.
<https://www.anao.gov.au/work/performance-audit/closing-the-gap>
- Baur, D., & Schmitz, H. P. (2012). Corporations and NGOs: When accountability leads to co-optation. *Journal of Business Ethics*, 106, 9–21.
<https://doi.org/10.1007/s10551-011-1057-9>
- Brugnach, M., Craps, M., & Dewulf, A. (2017). Including Indigenous peoples in climate change mitigation: Addressing issues of scale, knowledge and power. *Climatic Change*, 140, 19–32.
<https://doi.org/10.1007/s10584-014-1280-3>
- Council of Australian Governments (COAG) (2018, December 12). Communiqué.
<https://www.coag.gov.au/meeting-outcomes/coag-meeting-communicue-12-december-2018>
- Council of Australian Governments (COAG) (2019). *Partnership Agreement on Closing the Gap 2019–2029*, COAG. <https://www.coag.gov.au/about-coag/agreements/closing-gap-partnership-agreement>
- Coalition of Peaks (2021). 'Our story', webpage, accessed 26 April 2021.
<https://coalitionofpeaks.org.au/our-story/>
- Dillon M. C. (2018, January 18). Tactics versus strategy in remote housing, *Inside Story*.
<https://insidestory.org.au/tactics-undermining-strategy-in-indigenous-housing/>
- Dillon M. C. (2020, September 8). 'A steep climb ahead, but the landscape has become clearer for Closing the Gap', *Inside Story*.
<https://insidestory.org.au/a-steep-climb-ahead-but-the-landscape-has-become-clearer-for-closing-the-gap/>
- Dillon M. C. (2021a). *The first decade of closing the gap: What went wrong?* (Discussion Paper No. 298). Centre for Aboriginal Economic Policy Research, ANU. <https://doi.org/10.25911/P9NB-F114>

Dillon, M. C. (2021b). *Codesign in the Indigenous policy domain: Risks and opportunities* (Discussion Paper No. 296). Centre for Aboriginal Economic Policy Research, ANU.

<https://doi.org/10.25911/WMJK-CE98>

Dillon, M. C. (2021c). The Commonwealth Closing the Gap implementation plan: A provisional assessment, [Blog post], *A Walking Shadow*.

<https://refragabledelusions.blogspot.com/2021/08/the-commonwealth-closing-gap.html>

Donaldson, D. (2017, June 5). Govt codesign 'not an equal partnership': Aboriginal health CEO, *The Mandarin*, www.themandarin.com.au/79865-govt-co-design-not-equal-partnership-aboriginal-health-ceo/

Dodson, M. (1996). Power and cultural difference in native title mediation, *Aboriginal Law Bulletin*, 3(84).

Dryzek, J. (2002). Including Australia: A democratic history. In G. Brennan & F. G. Castles (Eds.), *Australia reshaped: 200 years of institutional transformation*. Cambridge University Press.

Fforde, C., Bamblett, L., Lovett, R., Gorringer, S., & Fogarty, B. (2013). Discourse, deficit and identity: Aboriginality, the race paradigm and the language of representation in contemporary Australia. *Media International Australia*, 149(1), 162–173.

<https://doi.org/10.1177/1329878X1314900117>

Gray, M., & Sanders, W. (2015). *Australian public opinion on Indigenous issues: Injustice, disadvantage and support for recognition* (ANUPoll No. 17). Centre for Social Research and Methods, ANU.

http://csrsm.cass.anu.edu.au/sites/default/files/docs/Indigenous-Issues-ANU-Poll2015_1.pdf

Hudson, B., Hunter, D., & Peckham, S. (2019). Policy failure and the policy-implementation gap: Can policy support programs help? *Policy Design and Practice*, 2(1), 1–14.

<https://doi.org/10.1080/25741292.2018.1540378>

Kruck, A., & Zangl, B. (2019). Trading privileges for support: the strategic co-optation of emerging powers into international institutions. *International Theory*, 11(3), 318–343.

<https://doi.org/10.1017/S1752971919000101>

Markham F. & Biddle N. (2017). *Indigenous population change in the 2016 Census* (2016 Census Paper No. 1). Centre for Aboriginal Economic Policy Research, ANU.

McLachlan, R., Gilfillan, G., & Gordon, J. (2013). *Deep and persistent disadvantage in Australia*, (Staff Working Paper). Productivity Commission. <https://www.pc.gov.au/research/supporting/deep-persistent-disadvantage/deep-persistent-disadvantage.pdf>

Morrison, S. (Prime Minister) & Wyatt, K. (Minister for Indigenous Australians) (2021, 5 August). Commonwealth's Closing the Gap Implementation Plan [Media release].

<https://ministers.pmc.gov.au/wyatt/2021/commonwealths-closing-gap-implementation-plan>

Mutch, N. E. (2011). *Does power imbalance matter in corporate-nonprofit partnerships?* [Unpublished doctoral dissertation]. Otago University.

<https://ourarchive.otago.ac.nz/handle/10523/1839>

Naseemullah, A., & Staniland, P. (2016). Indirect rule and varieties of governance. *Governance*, 29(1), 13–30. doi:10.1111/gove.12129

Productivity Commission (2018). *Rising inequality? A stocktake of the evidence*, Commission Research Paper, Productivity Commission.

<https://www.pc.gov.au/research/completed/rising-inequality>

Productivity Commission (2021). Closing the Gap Information Repository, Productivity Commission. <https://pc.gov.au/closing-the-gap-data> (accessed 24 June 2021).

Purdy, J. M. (2012). A framework for assessing power in collaborative governance processes. *Public Administration Review*, 72, 409–417. <https://doi.org/10.1111/j.1540-6210.2011.02525.x>

Rowse, T., & Pertierra, A. C. (2019). From white nation to white caution: Non-Indigenous reflections on Indigenous difference, *Journal of Australian Studies*, 43(3), 283–298, doi: 10.1080/14443058.2019.1640769

Sakinofsky P., Janks, A., Clark, T., & Hawtrey, K. (2019). Power imbalance in media representation: An Aboriginal Australian public relations experience. *PRism*, 15(1), Massey University. <https://www.prismjournal.org/v15-no1.html>

Sanders, W. (2021). *Big picture essays on Australian Indigenous policy: Deep structures and decolonising* (Policy Insights Paper No. 05). Centre for Aboriginal Economic Policy Research, ANU. <https://doi.org/10.25911/E6JF-VY08>

Shergold, P. (2015). *Learning from failure: Why large government policy initiatives have gone so badly wrong in the past and how the chances of success in the future can be improved*. Australian Public Service Commission. <http://www.apsc.gov.au/publications-and-media/current-publications/learning-from-failure>

Special Gathering (2018). Statement Closing the Gap Refresh: Building pathways for future prosperity, February 2018. <https://www.closingthegap.gov.au/sites/default/files/files/special-gathering-statement-coag.pdf>

Stokes, G. (2002). Australian democracy and Indigenous self-determination, 1901–2001. In G. Brennan & F. G. Castles (Eds.) *Australia reshaped: 200 years of institutional transformation*. Cambridge University Press.

Sullivan, P. (2016). Farewell to the spirit of 1967, *Inside Story* 29 June 2016, <https://insidestory.org.au/farewell-to-the-spirit-of-1967/>

Tully J. (2000). The struggles of Indigenous peoples for and of freedom. In D. Ivison, P. Patton, & W. Sanders (Eds.), *Political theory and the rights of Indigenous peoples*. Cambridge University Press.

Westbury, N. D., & Dillon, M. C. (2019). *Overcoming Indigenous exclusion: Very hard, plenty humbug* (Policy Insights Paper No. 1). Centre for Aboriginal Economic Policy Research, ANU.

Wyatt, K. (Minister for Indigenous Australians) (2020, August 6). *Community controlled sector investment supports Closing the Gap* [Media release]. <https://ministers.pmc.gov.au/wyatt/2020/community-controlled-sector-investment-supports-closing-gap>

Wyatt K. (Minister for Indigenous Australians) (2021a, February 12). *Closing the Gap reporting* [Media release]. <https://ministers.pmc.gov.au/wyatt/2021/closing-gap-reporting>

Wyatt K. (Minister for Indigenous Australians) (2021b, June 23). *Making Closing the Gap data more accessible* [Media release]. <https://ministers.pmc.gov.au/wyatt/2021/making-closing-gap-data-more-accessible>

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