

Identifying and Preventing Gray Corruption in Australian Politics



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Introduction

Australia has long been considered to rate highly on public perceptions of integrity (Graycar & Prenzler, 2013). However, the 2015 Transparency International (TI) *Corruption Perceptions Index* reported that Australia's score internationally had deteriorated from 85 in 2012 to 79, slipping from a rank of 7 to 13. This position was maintained in the 2016 report (Transparency International, 2016). Australia has seen a number of grand corruption scandals in the private sector in the last decade, such as the Visy Board and Australian Wheat Board price-fixing and bribery cases (Overington, 2017; Parker, 2007). In the public sector, the main grand corruption cases occurred in New South Wales (NSW) and involved the two main political parties – Labor and Liberal – in donations fraud, undue influence, kickbacks, and bribery at both state and local levels (e.g., ICAC, 2013, 2014, 2016). Australia's decline in the TI index may have been influenced by such cases. At the same time, the decline correlated with an accumulation of many more minor scandals and controversies, played out in the media. This paper explores these issues as they escalated over time, with a focus on the high-profile cases captured in media reportage.

Gray Corruption

“Corruption” is often viewed across a range of harms. For example, Graycar (2015) refers to a spectrum of misconduct in government from “grand” corruption – often involving large amounts of money and major distortions of the policy process – to various forms of “petty” corruption such as low-level favors by public officials.

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In somewhat similar terms, Graycar reported on a recent Chinese government drive against corruption that included both “tigers” and “flies” (2015, p. 87). Major and minor corruption can also be considered in terms of a color metaphor of “black” and “gray” (also “hard” and “soft”; Richter & Burke, 2007, p. 77; TI Australia, 2016, p. 2). “Black” relates to the most serious forms of corruption and also to behaviors – such as bribery – that are clearly prohibited by law resonating with the concept of “black letter law.” The “gray” metaphor can be used to refer to both minor corruption and behaviors often regarded as “corrupt” but where there is some legal ambiguity in statutory or case law.

On the surface, there are considerable differences between examples of black and gray corruption in terms of the severity of losses or insults to ethical standards. In some cases, there is clearly a mutual benefit motivating both the “corrupter” and “the corrupted.” Examples include company representatives providing gifts to purchasing officers or developers donating to politicians’ campaign funds in the hope of favorable planning decisions (Graycar & Prenzler, 2013). The victims, however, can be various, including companies excluded from fair dealing, taxpayers who fund inflated purchases, and political parties who cannot deploy large campaign budgets. From this perspective, the consequences of gray corruption can be widespread and extend beyond financial disadvantage. For example, “gratuities” given to police – such as discounted meals – often become habitual and highly visible; they undermine public confidence in police and often add up over a period of time to large a financial gain (Prenzler, Beckley & Bronitt, 2013). Gratuities can also lead to police neglecting their duty, discriminating in law enforcement, and even aggressively pursuing benefits from small businesses. Available public opinion surveys indicate majority opposition to gratuities for police and other public officials; and international surveys also show that other forms of gray corruption – such as nepotism, favoritism, and self-benefiting behaviors by public officials – involve public opposition on grounds of unfairness and reductions in the quality of public services (e.g., Hunady, 2017; Konald, 2007; Prenzler, et al., 2013; Truex, 2010). Public service codes of ethics have developed over time to reflect these views. As one example, the United Nations (1996) *International Code of Conduct for Public Officials* defines public office as “a position of trust, implying a duty to act in the public interest” and that, professionally and personally, public officials must conduct themselves in a manner that does not “impair public confidence” (section “Introduction”, 11).

The Australian Context

Australian politics is characterized by recurring controversies over alleged misconduct by politicians and public servants occurring outside legal definitions of corruption or enforcement. Misuse of politicians’ expenses entitlements is one example involving repeated scandals. For example, in the 1992 “travel rorts” scandal in the state of Queensland, 54 members of parliament from both major parties were found

to have taken 225 journeys that could not be explained in terms of government business (Criminal Justice Commission, 1992). An investigation revealed that most of the trips were for personal reasons, such as holidays. One member, who later became Treasurer, traveled with his wife to Sydney in order to coach his sporting team in a competition. The only sanctions applied were some temporary demotions from ministerial positions. A similar process occurred in 1997 in the federal “travel rorts affair,” when Prime Minister John Howard sacked three ministers over the misuse of travel allowances (Brenton, 2012). In cases like these, it has been argued that legislation and guidelines are too vague to allow for successful prosecutions of what is often considered to be theft (cf. Criminal Justice Commission, 1992).

Another controversial gray area in Australian political ethics involves noncompetitive appointments of politicians to well-remunerated and attractive positions, especially government boards, and trade and diplomatic roles overseas (Atkins, 2013). These are often condemned as sinecures and rewards for vacating positions. Infamous recent cases include former federal Labor Opposition Leader Kim Beazley as Ambassador to the United States, and former South Australian Labor Premier Mike Rann and former federal Liberal Foreign Minister Alexander Downer as High Commissioners to the United Kingdom. Lies and false promises have also been a standard part of the political landscape and a common source of discontent. Two infamous cases which entered Australian political folklore involved Prime Minister Bob Hawke – who declared that “by 1990, no Australian child will be living in poverty” (in Koziol, 2017) – and Prime Minister John Howard who vowed there would be “no GST, never ever” before the 1996 election and subsequently introduced a GST, describing the promise as “noncore” (in Alexander, 2014, p. 1).

Politicians have been quick to downplay these problems as par-for-the-course in an adversarial democratic system, despite clear evidence that the behaviors are viewed cynically by the public and contribute to the low ratings applied to politicians’ ethics (Bean, 2012; Roy Morgan, 2016). A number of public opinion polls in Australia indicate that this array of “gray” behaviors by both elected and appointed officials – including the acceptance of gifts and gratuities and personal favors and undue influence – are widely seen as “corrupt” in the sense that they entail an inappropriate exploitation of one’s position (Bean, 2012; Prenzler, et al., 2013). Recent survey research also supports the TI findings, outlined above, that corruption has been seen as an increasing problem in Australia. The associated TI 2017 *Global Corruption Barometer* survey results found that majorities in the range 60–83 percent believed that there was at least some corruption among elected and appointed officials; 34 percent believed that corruption had increased, while only 5 percent believed it had decreased; 66 percent thought that corporate political donations were “a big problem”; and 41 percent thought “the government” was not doing well in “handling the fight against corruption,” with only 45 percent believing it was doing well (TI Australia, 2017). These results have been supported by a range of other recent surveys, which also indicate that trust in Australian political institutions is undermined by perceptions of corruption (Graycar, 2014, McAllister, 2014; The Australia Institute, 2017).

The present study provides an account of the developing scandals in the gray corruption area in Australia, including at state and local levels but focused on the federal level during the Prime Ministership of Tony Abbott, from September 2013 to September 2015. The federal issues culminated in the forced resignation of the Speaker of the Lower House in an expenses scandal and initiation of a major review of politicians' entitlements; and Abbott's failure to effectively manage the issue contributed to his replacement by Malcolm Turnbull (Whinnett, 2015b). The period of the Abbott government saw sustained media attention on gray corruption issues, and the chapter is based on cases and critiques derived from the media database Factiva.com (primarily newspapers). The account is organized around six main topics: (1) misuse of politicians' expense accounts; (2) wasteful expenditures and pork barreling; (3) gifts and benefits; (4) lies and false promises; (5) cronyism, nepotism, and sinecures; and (6) political donations and undue influence. These findings are documented below, followed by a discussion section "[Addressing the Problem: Ways Forward.](#)"

Gray Corruption Cases

Misuse of Politicians' Expense Accounts

Accusations of abuse of expense accounts by politicians was the most prominent gray corruption issue at the federal level during the period of the Abbott-led Liberal-National Coalition government, as played out in the media. In opposition, Abbott had vociferously attacked the preceding Labor Rudd-Gillard governments (2010–2013) over questionable conduct, including false promises and support for scandal-plagued members of the parliament. However, immediately upon obtaining government, Abbott was embroiled in an "expenses scandal" over past and present cases (Swan & Visentin, 2013, p. A004). The scandal was driven in part by a series of Fairfax Media investigations, supported by reader disclosures and Freedom of Information applications (ANAO, 2015a, p. 75; Needham, 2013). The campaign led to approximately AU\$20,000 of repayments in a three-week period (Hall, 2013). The following lists some examples of high-profile cases from 2013:

- Controversy erupted over revelations that new senior ministers had previously used public money to attend the wedding of "shock jock" radio announcer Michael Smith, seen as a supporter of their Party. Under pressure, Attorney General George Brandis repaid \$1683 of travel expenses, and Minister for Agriculture Barnaby Joyce repaid \$615 (Stone, 2013).
- Revelations about a wedding in India attracted further controversy after it was revealed that Joyce, Foreign Minister Julie Bishop, and MP Teresa Gambaro had spent approximately \$12,000 – ostensibly for "overseas study" – to attend the event (Robertson & Swan, 2013, p. 5). The politicians were invited guests of Australian billionaire mining magnate Gina Rinehart, whose client was the grandfather of the bride.

- It was also revealed that Joyce had attended three football games, at a cost to taxpayers of \$4615, in his capacity as Shadow Minister. Free tickets to corporate boxes were supplied by a major bank and a rugby commission, but the government funded the accommodation, flights, and transfers. Joyce listed the trips as “official business” but without explanation (Swan & Visentin, 2013, p. A004).
- Controversy reignited over a previous repayment to Prime Minister Abbott of \$9400, claimed for expenses when on a promotional tour for his autobiography *Battlelines* (Anderson, 2013).
- Abbott was also criticized for spending more than \$23,000 of public money when he was Opposition Leader attending sporting events, including the Bathurst V8 Supercars, Coffs Coast Cycle Challenge, Melbourne Cup, and Birdsville Races (Hall, 2013).
- Incoming Attorney General George Brandis was told he could not relocate his custom built \$7000 bookcase to his new office. A new bookcase – stocked with \$12,800 of magazines and books paid for by taxpayers – cost \$17,000 (Owens, 2014; Swan, 2013).
- Government MP Don Randall was forced to repay \$5259 for an overnight flight of 3444 kilometers from Perth to Cairns – claimed as “electorate business” – after it was revealed he bought an investment property while in Cairns (Kirkpatric, 2013, p. 1). Randall stated he needed to make the trip to talk to a Queensland politician but could not explain why the conversation could not have been conducted by telephone.

The Opposition Labor Party sought to make capital out of the cases involving conservative politicians but quickly became mired in the same types of allegations. It was revealed that high-profile Labor Frontbencher Tony Burke had previously been forced to make 15 repayments totalling \$6868 for incorrect travel claims (Anderson, 2013; Packham & Kelly, 2013). Revelations about repayments extended to 22 federal Labor politicians, including former Attorney General Mark Dreyfus – required to repay \$466 claimed for accommodation in the capital Canberra when on a skiing trip in the nearby Snowy Mountains (Kirkpatric, 2013). It was also revealed that ministers in the Rudd-Gillard governments spent over \$4 million in a 3-year period on special Air Force VIP flights when guidelines indicated they should have flown on regular commercial services (Iser, 2013).

In the period of the Gillard government, and the early period of the Abbott government, a good deal of the controversy over expenses was centered on the figure of Peter Slipper, who eventually provided an important legal test case. Slipper was a long-term member of the Lower House, mostly as a member of the Liberal Party. He was the subject of repeated allegations of excessive travel. In 2010, he became Deputy Speaker of the Lower House in a deal with the minority Gillard Labor government. In 2012, accusations of misuse of entitlements by Slipper became focused on three visits to wineries in the Canberra region via taxi at a cost to taxpayers of \$954. This issue, and separate accusations of sexual impropriety, forced his resignation as Speaker in October 2012.

Pressure on the Australian Federal Police over Slipper's visits to the wineries led to an investigation and then prosecution. In 2013, Slipper was charged with a fraud-related offense of "dishonestly caus(ing) a loss" to the Commonwealth, under Section 135.1(5) of the *Commonwealth Criminal Code Act 1995*. Slipper described his prosecution and the failure to prosecute other politicians for similar conduct as "breathtaking hypocrisy" (in Swan, Bachelard & Hurst, 2013, p. 1). He was convicted in the Australian Capital Territory (ACT) Magistrates Court in 2014, received a community service order of 300 hours, and was ordered to repay the money. However, in 2014/2015, he successfully appealed to the ACT Supreme Court. The judge accepted the argument that it could not be proven that Slipper was not engaged in "parliamentary business" when he visited the wineries (Slipper v Magistrates Court, 2014). The decision was widely seen as a blow to efforts to improve political accountability and a case of legal reasoning at odds with common sense and public opinion (Waterford, 2015).

The Slipper case was eclipsed in 2015 by a case dubbed "choppergate," involving Bronwyn Bishop – a veteran Liberal member of parliament and Speaker of the Lower House in the Abbott government. In July 2015, stories emerged that in 2014 Bishop had chartered a return helicopter flight from Melbourne to Geelong for a Liberal Party fundraising event at a cost to taxpayers of \$5227. Geelong is 1 hour by road from Melbourne. The disclosures sparked universal outrage, including from conservative commentators (Albrechtson, 2015; Bolt, 2015). Bishop repaid the cost of the trip and paid a penalty of \$1307 but refused to apologize, and she refused to resign until August 2015. The furor over choppergate was also fueled by additional disclosures: notably that Bishop had spent \$336,000 on luxury overseas travel in less than 2 years in the Speaker's Chair, including \$88,000 on a 2-week European tour as part of an unsuccessful bid for Presidency of the Inter-Parliamentary Union (Lewis, 2015). She also spent over \$200,000 over five years on chauffeured limousines and private cars, including to attend the opera and other entertainment events.

Bishop was something of an outlier as an individual, but "rorring" was a common theme that developed in media reportage in the period. For example, extensive coverage was given to a belated Australian National Audit Office assessment of the management of federal politicians' travel over 2012 and 2013 (ANAO 2015a). The report found numerous examples of uneconomic expenditures, such as the use of charter flights instead of regular commercial flights and questionable accommodation expenses. It also noted that many politicians were most likely using their parliamentary travel entitlements for travel that was for electioneering and outside the guidelines. Media summaries employed more dramatic language, as in the following example (Meers, 2015, p. 15):

Federal politicians are racking up tens of millions of dollars in business-class travel on flights of less than 200 km and staying at hotels less than 30 km from their home, a damning report by the Auditor-General has revealed. One MP took a plane for nine return flights rather than drive 190 km between electorate offices. Another racked up \$6300 chartering a plane for a 75-minute flight to pick up their partner before travelling elsewhere in the electorate to justify the flight.

Contrary to the circumlocutory language of the ANAO report, one newspaper account provided a plain language version of how politicians commonly gamed the system (Matthewson, 2015, p. 1):

Perhaps the most common rort is to schedule an official commitment with a party or private event, so that the taxpayer foots any associated travel and accommodation bill. This was likely the case when 16 Government frontbenchers happened to be in Melbourne for official business around the same time as a major Liberal fundraising event. And when former PM Julia Gillard used a RAAF jet to travel to Byron Bay to inspect roadworks the morning after she attended the wedding of two staffers. The major parties even push the boundaries of MP entitlements at election time, leaving the official launch of the campaign until as close to polling day as possible, because at this point the taxpayer stops footing their travel and accommodation costs.

The ANAO report referred to three previous audits, going back to 2000, which identified the same problems.

“Choppergate” contributed to a slight drop in support for the government in the opinion polls – from 40% down to 39%, on a par with Labor (Whinnett, 2015a). One poll found that 58% of respondents believed Bronwyn Bishop should have resigned, with only 30% disagreeing (Beaumont, 2015). On the back of the scandal, support for a federal anti-corruption agency reached 73%, with only 11% of survey respondents opposed (Beaumont, 2015). The Treasurer and the Social Services Minister stated that Bishop’s actions had failed the “pub test” regarding fair conduct (in Barnes, 2015, p. 1), although it was also pointed out that the Treasurer – Joe Hockey – had claimed \$14,566 to fly his family business class to Perth in 2013 when in opposition (Shepherd, 2015).

As the weeks passed, the travel scandal issue became so sensitive that it became newsworthy when South Australian Liberal Party Senator Cory Bernardi claimed slightly less than \$500 in travel entitlements to appear as guest speaker at a fundraising dinner in Queensland (Medhora, 2015). In an unsuccessful attempt to defuse the scandal, in August 2015, Prime Minister Abbott launched a review of the federal entitlement system. The report, which included recommendations for tightening the rules, was published in February 2016 (Conde, Tune, Jenkins, Nelson, & Bardo Nicholls, 2016; see below). However, adverse reportage about politicians’ expenses continued as the year progressed. *News.com.au* published an article with the headline “The 10 most outrageous things pollies have spent our money on” (Staff Writers, 2016). Examples, ostensibly within guidelines but allegedly excessive, included the following:

- Labor Frontbencher Tony Burke, who led the charge against Bishop, claimed \$8000 for his family to travel business class on a 4-day holiday to the iconic Uluru resort. Other expenses claimed by Burke included \$48,951 for 6 days in Europe, \$90 in fares for government cars for transportation to a Robbie Williams concert, and \$16,000 for use of the Prime Minister’s jet when in government, instead of using commercial flights (see also Lewis, 2015).
- A number of members of parliament spent extraordinary amounts of money on electoral office refits, including South Australian MP Tony Pasin at \$579,000;

Tasmanian Senator Jacqui Lambie at \$356,000; and Joyce, with two fit-outs totaling \$670,748 (see also Roberts, 2015; Strathearn, 2015).

- Northern Territory MP Warren Snowdon spent \$365,000 on travel and office expenses (see also Dunlop, 2016).
- Brisbane MP Peter Dutton spent \$28,537 on family travel in 1 year.

Wasteful Expenditures and Pork Barreling

The excessive nature of government expenditures in other areas also drew increased media attention during the period of the Abbott government, including by state and local governments. Examples included the following:

- In Tasmania, *The Mercury* reported that the state government spent \$8.6 million in 1 year on “ministerial and parliamentary support” (Smith, 2015, p. 59). This included the purchase of tickets for government-sponsored events and MPs’ purchases of “camcorders, cameras, wafer-thin laptops, artworks, photos and a \$2000 coffee machine” (Smith, 2015, p. 59).
- At the federal level, in 2014, taxpayers were billed approximately \$100,000 for portraits of Gillard, Rudd, and Slipper (Marszalek, 2014).
- \$55 million was spent by the federal government transferring five refugees to Cambodia in a failed resettlement deal (Jackson, 2016). By 2016 only one refugee remained in Cambodia.
- The federal government embarked on a \$14.6 million publicity campaign for its unsuccessful higher education reforms, instead of negotiating with the Senate crossbench who had the power over the reforms (Knott, 2015).
- Controversial expenditures by local governments included a \$7000 outdoor ping pong table in Darwin, \$334,000 on a public art installation “Skywhale” in Canberra, \$5500 for artists to build and then remove a brick wall in Melbourne, and \$2 million for hedging along a 1 kilometer section of a street in Sydney (News.com.au, 2013; Sutton, 2013).
- *The Courier-Mail* analyzed pension entitlements for six federal politicians from Queensland who retired at the 2016 election, estimating a number would receive in excess of \$200,000 a year (2.5 times the average wage), with one earning over \$300,000 per year (Killoran, 2016).

Pork barreling was the focus of numerous accounts of excessive expenditures. In 2014, Fairfax Media outlets revealed that 90 percent of grants under the federal government’s “Safer Streets” program – rolled out during the 2013 election – went to Coalition seats (e.g., Aston, 2014). Subsequently, the Auditor General released a report showing that the distribution of \$19 million of funds, mainly involving street lighting and CCTV, was not based on objective assessments of safety needs and likely crime prevention benefits (ANAO, 2015b, p. 18; Aston, 2015).

Reporting of financial pledges and criticism reached a crescendo in the final week of the 2016 federal election campaign. The conservative national broadsheet *The Australian* carried a headline “Coalition wins hands down on pork-barreling” (Uren, 2016, p. 6). The article claimed the Coalition was “outspending” Labor by almost four dollars to one in targeted electorates, aimed at protecting the vote in Coalition seats and enticing swinging voters in marginal Labor seats (p. 6).

Another area of reporting concerned excessive public service salaries. There were recurring exposés of enormous salaries paid to university vice-chancellors. Most received close to, or in excess of, one million dollars per annum – more than twice the salaries of the Prime Minister, state premiers, and mayors but with significantly less responsibility (Hare, 2015, 2016). Repeated concerns about excessive public servant salaries reached a climax in 2017 with revelations that the CEO of Australia Post was paid \$5.5 million per annum (Smith, 2017). The disclosure sparked a government review, which revealed that 15 public servants were receiving salaries of more than \$1 million. One of the more egregious examples concerned \$3.6 million per annum paid to the CEO of the National Broadband Network. The network has been arguably the most maligned infrastructure project in Australia due to enormous delays and cost blowouts (Battersby, 2016). Several media reports focused on the contradictory practice of awarding performance bonuses and large pay rises – well above inflation and general wage rises – to executives in government departments simply for doing their job or, in some cases, being rewarded despite reviews showing their departments were underperforming (e.g., Kemp, 2016; Killoran, 2015).

Expenditures on unwarranted by-elections was another area of adverse media reportage. The problem involved politicians standing for election with a commitment to a full parliamentary term and then resigning from parliament mid-term. When Prime Minister Rudd resigned after losing the 2015 election, the by-election in his seat cost taxpayers \$1,269,680, and this was a typical cost (Australian Electoral Commission, 2017a). In the majority of cases, it appears that politicians who resigned were acting out of self-interest, such as taking up a lucrative employment position in the private or public sectors or simply because they were in a leadership position and lost an election – as in the Rudd case. (This problem overlapped with the larger ethical problem of politicians standing for election as a representative of a Party and then resigning from the Party and remaining in parliament as an independent or member of another Party.)

Budget cuts in 2014 triggered a revival of attacks on retired federal politicians’ “Life Gold Pass”: an entitlement of up to 25 business class return flights per year within Australia accompanied by a family member (Madden, 2015). In a 10-year period, the scheme reportedly cost over \$12 million for approximately 25,000 flights (Hudson, 2014b). Prime Minister Gillard put an end to the scheme for new members, but the entitlement was maintained for existing and retired members. A report by *The Australian* contrasted several cases with examples of callous government funding restrictions (Hudson, 2014a, p. 10):

Geoff Prosser, a millionaire former Liberal minister, sent taxpayers the bill for \$18,891 worth of flights in 2012–13. His flight records show five return trips from Perth to Broome, where he just happens to own a holiday home... It makes it a bit hard to stomach government moves to axe an annual payment of \$215 for children and orphans of war veterans because of the dire state of the budget when there's money to fly a millionaire with a generous super payout to his holiday home. And next time the government says it can't subsidize a lifesaving drug, consider that it still finds the cash for more than 100 retired politicians to board the taxpayer funded gravy plane. Former Nationals leader Ian Sinclair chalked up \$28,254 for 53 flights in 2012–13 – that's one a week – for himself and family, which included travel to Lord Howe Island, where he owns a holiday cottage, in July, September, October, January and April. Another former Howard government minister, Robert Hill, regularly flies to the Whitsundays airport at Proserpine. Last financial year he and a family member landed there in September, December, March (at Easter), May and June. The flights contributed to the \$34,771 worth of free travel he received.

Under pressure, in 2014, Prime Minister Abbott promised to add further restrictions to the scheme but then deferred implementation (Hudson, 2014b; Madden, 2015).

Gifts and Benefits

Gifts to politicians and public servants also attracted media scrutiny and criticism in this period, with one high-profile casualty. In 2014, NSW Premier Barry O'Farrell – in a case dubbed “Grange-gate” – was forced to resign following revelations he received a \$2978 bottle of Grange from a company lobbying for a water contract (Norrington, 2014). In addition, the “choppergate” scandal (above) spiraled out to include revelations about gifts to the Speaker of the federal Lower House, Bronwyn Bishop, which included “a first-class, all-expenses-paid trip to Casablanca, theatre tickets and bottles of fine wine” (Lewis, 2015, p. 4).

Public servants were also caught out in gift and benefit scandals. In 2015, “Operation Kilo” by the Tasmanian Integrity Commission revealed extensive conflicts of interest in the public sector, primarily related to gifts supplied by companies involved in contracting. Examples included “golf days, movie nights (with partners and children), tennis tickets, cricket tickets, AFL (Australian Football League) tickets, music festival tickets, motor racing tickets, tickets to industry lunches, theatre tickets, and horse races” (Integrity Commission, 2015, p. 83). In the Tasmanian case, there was particular concern related to medical staff accepting gifts from pharmaceutical companies and medical device suppliers, including the payment of conference attendance costs (Atkin & Salmon, 2015). In an earlier case in Victoria, the *Herald Sun* released a story on free and discounted food given to police and emergency service workers by fast food outlets (Dowling, 2013). The report focused on police, given they had the greatest potential to skew services in favor of providers. Victorian Police Chief Commissioner Ken Lay wrote to McDonald's, asking them to halt the policy, concerned that discounts to police could lead to perceptions of bias. However, it was also revealed that Lay and other senior officers were “being schmoozed with corporate tickets to sporting events and other gifts and hospitality.”

including the “Australian Grand Prix suite, corporate seats at AFL matches and golf rounds linked to the Australian Masters” (Devic, 2013, p. 21).

Lies and False Promises

By the time of the 2013 election, lies and false promises were second nature to Australian political leaders. Labor Prime Minister Julia Gillard announced before the 2010 election that “there will be no carbon tax under a government I lead” (in Hannan, 2011, p. 6). A carbon tax was introduced by her government in 2011. As Opposition Leader, Tony Abbott sought to set himself apart from such spectacular false promises. In 2011, he declared “It is an absolute principle of democracy that governments should not and must not say one thing before an election and do the opposite afterwards” (in Australian Broadcasting Corporation, 2016, p. 1). However, on the eve of the 2013 election, in what was widely seen as a case of bad nerves, Abbott made it “our pledge” that there would be “no cuts to education, no cuts to health, no changes to pensions, no changes to the GST, no cuts to ABC or SBS [the two public broadcasters]” (in Wright, 2014, p. A004). Abbot then cited an alleged budget emergency as justification for large cuts to education and health, plans to reduce access to the aged pension, and attempted cuts to the ABC and SBS (Wright, 2014). Treasurer Hockey promised “tax cuts without new taxes” but then introduced a “deficit tax” and a tax on frontline medical services (in Alexander, 2014). The lies compounded the adverse effects of reduced expenditures, and the government took a large hit in the polls, down from 46% at the election to 39% (Maiden, 2014). One poll found that 72 percent of respondents viewed the debt tax as a broken promise (Maiden, 2014). In 2016, the Australian Broadcasting Commission checked the progress of 78 promises made by the Abbott government. It found that 30 had been achieved, 19 were “broken,” 21 were in progress, and 8 had “stalled” (Australian Broadcasting Corporation, 2016, p. 1; see also Taylor, 2015).

Cronyism and Nepotism

The period of the Abbott government included repeated stories of cronyism and nepotism of the type outlined in the earlier background section to this paper. One high-profile case, which came to light in 2014, involved the gifting of a \$60,000 scholarship to one of Abbott’s daughters to attend a prestigious design college. The College Chair was a long-time friend and supporter of Abbott. The evidence, released by whistleblowers, indicated there were more deserving potential recipients (Nickless, 2014; Cheer, 2014). Several other cronyism and nepotism cases involved public servants. The most high-profile, covering both grand and gray corruption, involved two senior managers in the Tasmanian public health system. “Operation Delta” – an investigation by the state Integrity Commission

(2014) – found that two chief executives in the Tasmania Health Organization had engaged in extensive favoritism in recruitment and procurement. Jane Holden organized a job for her husband in maintenance work, despite the fact he had no qualifications. She also organized consultancy work for Gavin Austin, a former colleague, and then employed him as Finance Director without a proper open and competitive process. Austin then employed his wife and son. Holden was dismissed from her position and Austen resigned.

Cronyism reached its apogee in the transition from the Abbott to the Turnbull government in 2015 with the resignation of the federal Treasurer Joe Hockey and his appointment as Ambassador to the United States. In his drive to reduce the federal government deficit, Hockey had famously declared that a conservative government would put an end to the “the age of entitlement” (in Nadin, 2012, p. 2). However, his time as Treasurer was marked by an enormous increase in the deficit, largely because of his inability to negotiate budget cuts with the Senate. Hockey’s brinkmanship and chronic underachievement made him particularly ill-suited for an ambassador role. However, the appointment – widely seen as a sinecure – opened the way for a new Treasurer to attempt to fix the deficit and turn around the government’s fortunes (Bartlett, 2015). To add insult to injury, Hockey was allowed to “double dip”: obtaining a \$90,000 per annum parliamentary pension while receiving a salary of \$360,000 per annum as ambassador, along with free accommodation, a chauffeur, and free air travel (Maiden, 2015). His premature resignation from parliament also caused a by-election costing \$1,675,904 (Australian Electoral Commission, 2017a).

Political Donations and Undue Influence

Issues of cronyism and nepotism outlined above overlapped with the ongoing issue in Australian politics of party donations and undue influence. The issue was pervasive across all levels of government and included findings in the “black corruption” category. One example concerned a large energy company, AGL, which pled guilty in 2016 (and was subsequently fined) on 11 counts of breaching NSW political disclosure legislation in failing to report donations made to both Labor and the Coalition parties. The donations were made when AGL was seeking approval to build new gas wells. The exposure was the result of action by a community group, not a government regulator (Hannam, 2016). In another case, in 2016 the NSW Independent Commission Against Corruption (ICAC) found that members of the NSW Liberal Party had operated an illegal scheme to avoid disclosure laws and a ban on political donations by property developers by channeling donations to the Party through shell organizations (ICAC, 2016). The ICAC was constrained by case law from making a clear finding of “corrupt conduct” under its governing legislation, but it did find that there had been breaches of the 1981 NSW *Election Funding, Expenditure and Disclosures Act*, and the state Electoral Commission penalized the Liberal Party by withholding \$4.4 million in public funding.

More generally, however, the issue remained in the domain of controversy, or “gray corruption.” In 2013, at the time of the election of the Abbott government, the threshold for disclosure of political donations was \$12,400 (Australian Electoral Commission, 2017b). This was widely seen as inadequate in that larger donations could be kept secret by being spread across party branches or – despite the NSW case outlined above – channeled through a range of “associated entities” including “think tanks” and ideologically based fundraising bodies (Leslie, 2016, p. 1). There were also ongoing concerns about extensive delays in disclosures, in that reports were made on an annualized basis, with up to 7-month delay in publication. This meant that many donations were only revealed after an election (Leslie, 2016). The system was also reliant on self-disclosure, with little in the way of proactive checking. Controversy also occurred around political parties requiring candidates to use particular companies in their campaign spend (e.g., for printing or IT services) and then channeling funds back to the party. In this period, concerns were focused on business donors seeking preferential treatment in government contracts and approvals (especially developers and miners), but a more bizarre case erupted over reports that Chinese companies had engaged in influence peddling by making donations in the interests of the Chinese Communist Party, prompting calls for bans on donations by non-citizens. The most high-profile case involved Labor Senator Sam Dastyari, who reportedly attempted to secure a \$400,000 donation to the Labor Party by making a public statement that appeared to support China’s territorial claims in the South China Sea, and had a travel bill paid by a Chinese donor (Uhlmann, 2017).

There were also ongoing concerns over party fundraising through expensive dinners with ministers, widely seen as buying access and influence (Sweet, 2013). Concerns extended to government funding of political parties. A system of funding based on votes in a preceding election was introduced in 1984 to reduce reliance on donations. However, this was characterized as just another impost on taxpayers, who were obliged to subsidize lurid attack ads (Young, 2013). At the 2013 federal election, parties received \$2.49 for every first preference vote, adding up to \$58 million (Australian Electoral Commission, 2017b).

The transition from the Abbott to the Turnbull governments saw no abatement in the negative media coverage of the political donations issue, and the rules remained in a gray patchwork across the country. In 2015, *The Age* newspaper described the rules as “grossly inconsistent across the nation, they lack transparency, fail to meet the most basic standards of timeliness, are open to abuse and are being rorted without any apparent shame by both of the major political parties” (Editorial, 2015, p. 16). In 2016, the ABC described the laws as “among the laxest in the Western world” (Leslie, 2016, p. 1).

Addressing the Problem: Ways Forward

The findings from this study strongly support the view that relatively “minor” cases of alleged corruption and conflicts of interest are widely seen as inappropriate and offensive. Adverse media coverage of gray corruption issues in Australia in recent

years is one indicator of a high level of public concern. There also appears to be a correlation between the escalation of these issues and the downward trend in integrity ratings for Australia. Available public opinion polls in Australia also lend support to the international literature indicating significant opposition to these more minor or ambiguous types of corruption and to the view that gray corruption undermines confidence in political and legal institutions. In a large number of the cases analyzed in the chapter, it appears that motivations included greed and a strong sense of entitlement and impunity. In some cases, careers were destroyed for relatively small amounts of money, with elements of risk-taking apparent, along with a lack of attention to detail. Media exposure was a key factor in forcing resignations, and loss of power and income, even where the law was deficient in ensuring accountability.

Overall then there is a strong case for enhanced prevention of gray corruption. However, the field of evidence-based corruption prevention is still in a nascent form. For example, Graycar and Prenzler, (2013) sought to identify available evidence of effective strategies and found there were very few cases available and hardly any clear intervention studies (see also Zhang & Lavena, 2015). The Graycar and Prenzler (2013) review did, however, provide strong support for the potential value of applying techniques from the more developed field of “situational crime prevention.” This approach is focused on making large reductions in crime by closing off or significantly reducing opportunities in the settings in which offending occurs. The 25 techniques of situational prevention include a number that are particularly relevant to gray corruption, including “set rules,” “post instructions,” “alert conscience,” “extend guardianship,” “strengthen formal surveillance,” “remove targets,” “deny benefits,” “reduce anonymity,” and “assist compliance” (Cornish & Clarke, 2003, p. 90). Other valuable frameworks are available for addressing the problem, including the United Nations (1996) *International Code of Conduct for Public Officials* and the United Nations (2003) *Convention Against Corruption*.

The present study has shown that ambiguity about standards provides a major opportunity for misuse of public office. The essential first step to reduce the gray corruption problem therefore involves much clearer language in law and regulations regarding what is and is not prohibited and then communicating these standards. This is covered by the situational prevention techniques of “rules,” “post instructions,” and “alert conscience.” Considerable work has been done in this area in relation to gifts and benefits to police (Prenzler, et al., 2013). Some jurisdictions have developed very detailed guidelines around a “near-zero” policy that makes reasonable allowances for very minor gifts that are appropriate in some circumstances – such as a gift of a pen to a police officer who addresses a community meeting – and specifies other situations where gifts are completely unacceptable such as free or discounted food in a commercial setting. The more useful police codes also include common scenarios faced by officers and enlargement of the rationales that lie behind prohibitions (Prenzler, et al., 2013).

The various scandals and controversies in Australia in recent years, and unremitting media condemnation, triggered considerable debate about best practice measures in the gray corruption area but with little in the way of action. One advance that provided a national model for transparency was the introduction of “real-time”

online data on political donations in Queensland in 2017 (Electoral Commission Queensland, 2017). The NSW ban on donations from property developers also provided an example of a strict principle, though with significant problems in terms of enforcement. The 2015–2016 review of federal politicians' expenses provided for some partial reforms, with recommendations to limit travel entitlements for holidays and families, strict limits on charter flights, a clearer definition of "parliamentary business," a greater gatekeeping role for bureaucrats in approving travel, monthly reporting of expenditures, and a 25% penalty on top of repayment requirements for false claims (Conde, et al., 2016). The government gave in-principle support to the recommendations, and implementation was slated for the latter part of 2017 (Remuneration Tribunal, 2017).

Commentary in the media was generally supportive of the reforms proposed in the entitlements review but suspicious of what any changes might mean in practice. There were criticisms of an alleged failure to clearly separate genuine electoral expenses from campaign spending and the ongoing absence of a code of conduct for politicians (e.g., Aston, 2016; Coghill, 2016; Peatling, 2016a, 2016b). The review also left the larger issue of political donations and campaign funding unresolved, and the nation was no closer to a consensus process for managing conflicts of interest. A number of critics and media commentators supported overseas models involving bans on corporate donations and/or caps on donations and campaign spending (e.g., Leslie, 2016; see Orr, 2016).

The entitlements review also bypassed numerous other issues covered in this chapter. Here, some useful guidance can be found in key ethical principles developed by the United Nations. The *International Code of Conduct for Public Officials* provides principles around public interest requirements that readily translate into rules that address ambiguities related to gray corruption. For example, principles of efficiency, effectiveness, and impartiality mean that it is absolutely essential that paid nonelected public sector positions are competitive (United Nations, 1996, Section I). All public sector employment positions – other than short-term nonrecurring contracts of a few months or less – must be advertised with an open application process, clear merit-centered criteria, and an independent selection panel. This would include ambassador positions, and the rules would go a long way to removing nepotism, cronyism, and sinecures.

Open application and selection by merit must also apply to all positions in politicians' electoral offices, and in media and policy advisory positions, to put the public service back to the ideal of impartial service – without positions being treated as rewards for service to a party. Rules also need to be absolutely clear about the need for public officials to declare real or potential conflicts of interest and, in most cases, absent themselves from decision-making when conflicts occur (United Nations, 1996, s II; 2003, Article 8). Similarly, procurement rules need to emphasize objective criteria, transparency, and open competition (2003, Article 9). Clear rules are also needed in relation to "trading in influence," "abuse of functions," and "illicit enrichment" (United Nations, 2003, Articles 18–20).

Rules also need to be communicated effectively, including through orientation programs for newly elected officials and in-service refresher programs. Rule setting

and communication in part “assist compliance,” and this approach can be extended to better systems for booking travel and processing donations. At the same time, when these fail, or prove inadequate, there needs to be a backup system of deterrence and incapacitation through enforcement. One of the most important innovations in this area is the creation of anti-corruption agencies (Graycar & Prenzler, 2013). These agencies should have powers, resources, and responsibilities to investigate and prosecute suspected misconduct. They are a key element of the United Nations *Convention Against Corruption*, under Article 36 on “specialized authorities”; and they represent the application of the situational crime prevention techniques of “extend guardianship” and “strengthen formal surveillance.”

The case studies in this chapter were drawn from media accounts – highlighting the importance of a free press in raising public sector integrity issues (Masters and Graycar, 2015). The charge was led by the Fairfax Group, which mounted a sustained investigative campaign, supported in part by Freedom of Information applications and reader reports. The campaign forced Rupert Murdoch’s more conservative pro-government News Corp to take an interest. The whistleblowers in the cronyism/nepotism case involving the scholarship grant to Prime Minister Abbott’s daughter were convicted of an offense of accessing confidential information and received good behavior bonds but had faced a potential 2-year sentence. The case was seen as one of a number that highlighted the lack of protection for whistleblowers in Australia (Hall, 2014). Public interest protections for whistleblowers should aid the process of public and media surveillance (Brown, 2013; Merritt, 2016).

Research on anti-corruption agencies, including in Australia, indicates that they are often highly constrained by narrow interpretations of the law, as represented by the failed Peter Slipper prosecution, and tend to be risk-averse in prosecuting cases in the criminal courts because of the high standard of proof (Graycar & Prenzler, 2013). However, apart from clarifying the law, gray corruption prevention and accountability can also be advanced by a larger role for these agencies in summary disciplinary decisions and adjudication of matters through misconduct tribunals – where the “balance of probabilities” applies as the standard of proof. This involves working with the best mix of noncriminal penalties and supportive behavioral change, through options such as employment dismissal, demotions, fines, retraining, and enhanced supervision. In addition, there would be merit in granting agencies a capacity to judge some conduct, such as blatant false advertising and excessive spending, as “unethical.” This would constitute a type of “naming and shaming.” The language of “false and misleading” claims – used in consumer protection law – provides a model (CAANZ, 2017). It is possible that this option would attract large numbers of politicized accusations, but an independent adjudicator, operating with clear standards, should generate a body of precedent cases and eventual reductions in cases. The system could potentially go a long way to meet public demands for action and address the widespread perception that politicians and many public servants flout common standards with impunity.

Summary

This chapter reviewed issues associated with the idea of gray corruption in Australia, focusing on scandals and controversies at the federal level during the period of the Abbott government, from 2013 to 2015, primarily as reported through the lens of newspaper exposés. The numerous examples covered a wide spectrum of types of alleged abuses – including politicians’ misuse of expense accounts, excessive expenditures and receipt of gifts, cronyism and nepotism, and influence peddling through party political donations. Australia is a strong wealthy democracy with significant capacity to establish and enforce systems consistent with common ethical principles and public opinion. The failure to do this is itself a scandal.

Discussion Questions for the Chapter

1. How appropriate is the concept of “gray corruption”? Does it capture an area of policy deficit that needs correction?
2. Are lies and false promises in politics just something to be accepted as a natural part of a robust democracy or something that should be prohibited and sanctioned?
3. Do politicians and senior public servants need to be paid wages well above average?
4. Are gifts and benefits to politicians and public servants just a legitimate way of saying “thank you,” or are they inappropriate means of enrichment and undue influence?
5. How can legitimate support for political activity, including financial donations to parties, be balanced against the need to prevent inappropriate influence?
6. Should all positions in the public sector involve appointment by merit through an open competitive process, or are governments entitled to make discretionary appointments?
7. How can citizens stop politicians and public servants engaging in profligate spending?
8. What criteria should be used to differentiate between legitimate and illegitimate expenses incurred by politicians?
9. Is an anti-corruption agency an essential element of an effective public sector integrity system?
10. Is gray corruption something that should be within the jurisdiction of an anti-corruption agency? Why? Why not?

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