

Democracy in Australia – Corruption

Corruption in Australia

Australia is a signatory to two important international anti-corruption conventions: the United Nations Convention against Corruption (entered into force 14 December 2005) and the Organisation for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials (entered into force 15 February 1999). In 1999, the Commonwealth Parliament passed the *Criminal Code Amendment (Bribery of Foreign Public Officials)* Act to implement Australia's obligation under the OECD Convention.

New South Wales, Queensland and Western Australia are the only states to have specialised bodies to deal with corruption. Public regulatory bodies are notably absent in other Australian states and territories. There is also no statutory Commonwealth anti-corruption body. The Ombudsman has expressed concern that his Office has the sole responsibility for investigations into corruption allegations (Commonwealth Ombudsman Annual Report 2003-04). In the absence of anti-corruption commissions, the nature of Australian defamation laws makes it difficult for journalists to expose corruption (Hindess, 2004).

In addition to what is traditionally thought of as corruption, Marian Sawer and others point out that “institutional corruption”, corrupt action for political gain, is widespread. Reforms are required to campaign finance (see issues paper) and regulation of the use for political purposes of allowances to sitting members of parliament.

The Cole Commission

The allegations that the Australian Wheat Board (AWB) brokered business deals with Iraq under the United Nations oil-for-food program and knowingly made illicit payments to Saddam Hussein's regime were subject to investigation by the Cole Commission (headed by Judge Terrence Cole). The Cole Inquiry reported on 24 November 2006, finding that responsibility lay with the AWB for the scandal and not with governmental officials. In August 2009, the Australian Federal Police dropped its criminal investigation of former AWB executives. A civil trial, brought by the Australian Securities and Investment Commission against the former chief executive of AWB, has, however, begun in the Victorian Supreme Court in October 2009.

The Cole report was critical of the lack of Commonwealth powers to respond to suspicious or corrupt practices. The report recommended that “there be conferred on an appropriate body a power to obtain evidence and information of any suspected breaches or evasion of sanctions that might constitute the commission of an offence against a law of the Commonwealth”.

International comparisons

Australia has a good record of anti-corruption performance on the international scales designed by Transparency International. However, Transparency International does criticise Australian law for its low and ineffective penalties for corruption and found in its 2009 report that Australia made “little or no effort” to enforce the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Transparency International does not take political corruption into account. This indicates the need for the establishment of an anti-corruption body in Australia with powers extending beyond the monitoring of corruption and bribery within law enforcement bodies. Uniform anti-defamation legislation that provides more protection for whistleblowers, as well as Commonwealth whistleblower legislation, would also provide greater accountability and transparency to combat institutional or political corruption (Hindess, 2004).

T H E A U S T R A L I A N C O L L A B O R A T I O N

Anti-corruption bodies

In June 2004, the Howard Government announced that it would establish an independent anti-corruption body to investigate corruption in Commonwealth law enforcement bodies such as the Australian Federal Police. The new body, the Australian Commission for Law Enforcement Integrity, is, however, limited in its scope to the detection, investigation and prevention of corruption in the Australian Crime Commission and the Australian Federal Police. Its jurisdiction does not cover other Commonwealth bodies or companies and corporations.

To date, the Rudd Government has taken no action to respond to the Cole report recommendation that a new Commissioner with comprehensive powers should be appointed. Further, as a result of the token increases in funding received in the 2008 budget, the Australian Commission for Law Enforcement Integrity will remain unable to use its powers effectively to investigate corruption in the Australian Federal Police and the Australian Crime Commission. This has occurred despite the continued growth of the bodies it has been set up to investigate; the Government, for example, increased funding for the AFP by about \$400 million to a total of around \$1 billion in this year's budget. The Commission's 2008 budget delivered less than 10 per cent of the amount John McMillan, its former acting head, said was necessary to make the new body effective by being able to conduct telephone taps and set up its own covert investigations unit.

Recommendations have also been made for the establishment of anti-corruption commissions in other Australian states, for example in Victoria to deal with the inadequacies of the ethical standards unit of the Victoria Police (see Hindess, 2004).

Sources

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