

## Our land is girt by oil-rich sea ... that we steal from East Timor

Clinton Fernandes | Sep 02, 2014 1:14PM |

Australia has been stealing billions of dollars from one of our poorest neighbours, writes **Clinton Fernandes**, associate professor at the University of New South Wales in Canberra and specialist in Australian foreign policy.

Australia has been flouting international law since 2002, taking billions of dollars in oil revenue that should rightfully belong to East Timor. No wonder we're being so cagey about the East Timor spying allegations.

In the Senate yesterday, independent Senator Nick Xenophon asked Attorney-General George Brandis [about reports in the Fairfax press](#) that a former spy and his lawyer might be charged with disclosing classified information about Australian espionage against East Timor.

East Timor is alleging before a three-person arbitration panel in The Hague that Australia breached international law by bugging East Timor's cabinet rooms during the 2004 bilateral negotiations over the Timor Sea Treaty. A key witness for East Timor is a former spy who is said to be the director of all technical operations for the Australian Secret Intelligence Service, which allegedly conducted the bugging operation using the Australian aid program as a cover. On December 3, 2013, the Australian Security Intelligence Organisation raided his house and the office and home of Bernard Collaery, a former attorney-general of the Australian Capital Territory who is providing legal advice to the government of East Timor. ASIO seized documents and data containing correspondence between East Timor's government and its legal advisers.

The former spy, known as Witness K, is due to testify at The Hague on September 27.

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Xenophon wanted to know whether the government would permit Witness K to travel to The Hague unimpeded (provided, of course, that the identities of current and former ASIS officers were not disclosed). After all, if he were prevented from giving evidence, that would impede a fair hearing. Brandis gave the standard defensive formulation: the matter is "currently before an international arbitral tribunal" and "it is the longstanding practice of Australian governments not to comment on matters currently before international arbitration".

East Timor is a fragile, new state, barely more than a decade old. It would like to draw a maritime border halfway between the Australian and East Timor coasts, as it is entitled to do under the *UN Convention on the Law of the Sea*. However, in March 2002, just two months before East Timor became independent, Alexander Downer, then Australia's foreign minister, announced that henceforth Australia would exclude all disputes relating to the delimitation of maritime zones from the compulsory jurisdiction of the International Court of Justice and the International Tribunal on the Law of the Sea. This meant that East Timor has the law on its side but can derive no benefit from that fact.

In 2004, Australia agreed to a median line boundary — with New Zealand, when we established a maritime boundary to resolve overlapping claims off the coast of Norfolk Island.

If international law were to apply, East Timor would be entitled to 100% of the oil and gas on its side of the median line in the Timor Sea. This includes the single most crucial resource, namely the Greater Sunrise field, the bulk of which lies just outside the lateral boundary of the Gap.

It is quite distasteful to see Australia's intelligence services being used to deprive the people of East Timor of their principal economic asset. Since 1999, Australia has taken more than \$4 billion in oil revenue that should rightfully belong to East Timor. Having taken a large portion of the wealth of one of the poorest countries in Asia, the Australian government has given back about \$0.4 billion in bilateral and multilateral assistance, and about \$0.5 billion in military assistance. This means that East Timor, believe it or not, is Australia's [largest international donor](#). This is not a typo.