

## Comment on Frank Brennan's paper from Robert Wesley-Smith

22/9/2014

In an article by Frank Brennan on 24th Sept this year, he included the following:

On 1 September 2014, Senator Brandis told the Australian Senate:

“It has been the policy of successive Australian governments that Australia should delimit its maritime boundaries through negotiations rather than resort to third-party dispute settlement, and that is the case here. You are also wrong, Senator Xenophon, in the suggestion that a median line is the only applicable principle. One thing your question ignores is the fact that the Australian continental shelf to the north-west of Western Australia runs beneath the Timor Sea very close to the southern coastline of East Timor. The median line principle, or the equidistance principle as it is sometimes referred to, is sometimes used, as the International Court of Justice affirmed in the North Sea continental shelf case in 1969 and again at the beginning of the Guinea-Bissau arbitration in 1986. It may be displaced by other circumstances”.

Brennan:

This Australian approach fails to take into account the developments in international law over the last 30 years or so. It fails to explain why it is that the Indonesians have still not ratified the 1997 treaty which establishes an exclusive economic zone and certain seabed boundaries for the two countries. There is a very credible case to be made that the Indonesians are anxious not to further cement their previously agreed continental shelf delimitation as they think it unjust. If Indonesia were negotiating a continental shelf boundary with Australia today, in all probability it would be drawn at or about the median line between the two countries.

A recent Arts event between East Timorese and Australian including Larrakia artists, Alistair Wyvill QC outlined the course of the arguments and negotiations over the last 10-12 years. I reminded people that geologically the tired Alexander Downer argument that the Australian continental shelf went to close to the southern boundary of East Timor, had been discounted long ago by geologists and maritime experts. In fact the continental shelf extends under East Timor until it meets the point north of Atauro Island where the 2 massive geological plates crunch into each other. Millions of years ago this movement pushed up the mountains of East Timor, and compensated by creating the Timor trough to the south.

One could reasonable argue that Australia sits on a continental shelf with Timor the capital up north. closer to the rest of the world.

I'm appalled that in this day and age Senator Brandis, our first law officer, for the purpose of continuing trying to rip off our poor neighbour East Timor, repeats the lie that the continental shelf terminates at the Timor Trough. He is continuing the policy of lying made so much an art form by Howard and Downer. (Then again, Howard, after committing Australia to a war in Iraq at the cost of hundreds of thousands lives, and now we see some consequences in the ISS, feels it is OK to just say he was 'embarrassed'. Bloody hell, he is a war criminal in the view of many! ) I say Brandis is either grossly incompetent, or also a liar.

It is over-time to negotiate fair maritime boundaries with East Timor.

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## COMMENT ON ROB WESLEY-SMITH'S STATEMENT ON AUSTRALIAN LEADERS

From Andy Alcock, Australia East Timor Friendship Association South Australia Inc

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I agree wholeheartedly with Rob's statement.

The hypocrisy of conservative politicians in the 2 major political parties in Australia on this issue is sickening. Interestingly, the maritime boundary between Australia and NZ is the median line between the two countries i.e. the Coalition and the ALP recognise the UN Convention of the Law of the Sea (UNCLOS) for NZ.

Why then, can they not apply this Convention to the maritime boundary with poorest country in our region? After all, this is international law and it is based on fair dealing. But these people who incessantly lecture us about the rule of law don't want to adhere to international law when they can enrich themselves and the executives of the oil companies whom they really represent.

These are the same people, who for 24 years, aided and abetted and acted as apologists for the TNI as it butchered a third of the East Timorese population.

And the East Timorese lost about 70,000 lives during WW2 because of their support for Australian commandos, so this is how these moral lepers show their gratitude.

They cannot even bring themselves to make some acknowledgement of the great sacrifice that the East Timorese in helping us defeat fascism during WW2. The Rudd Government promised that it would honour Timor-Leste, but never did.

Peter Cosgrove did honour former Timor-Leste PM and president, Jose Ramos Horta, with a Companion of the Order of Australia award recently, which is good. However, the East Timorese have never been acknowledged for what they did to support us during WW2 because our political leaders wanted to pinch the oil and gas from their half of the Timor Sea. And they still do.

Recently, during an ABC TV Questions and Answers program, former foreign affairs minister, Gareth Evans, admitted that Indonesia went over the top in East Timor. This is quite an admission coming from him. No one asked him, if this is how he felt, why he referred to the 1991 Santa Cruz Massacre in Dili as an aberration. One of the most odious and shameful film clips from his time as foreign minister shows him toasting Ali Alatas, his Indonesian counterpart and a part of the brutal dictatorship of General Suharto, after they had signed a Timor Sea oil and gas treaty. It should come as no surprise that this agreement about dividing up East Timor's resources in the Timor Sea was made without consulting its leaders or allocating any of the resources to the Timorese.

Taking resources from a country while it is under illegal foreign occupation is a violation of international law. Evans served as an Australian attorney general during his time in parliament and should have been aware of this fact. And George Brandis should be fully aware that not agreeing to UNCLOS is extremely unfair if not a violation of international law.

It is high time that Australia applied the UNCLOS maritime boundary to Timor-Leste as it does with NZ. It is also time that Australia made official recognition of the support of the East Timorese to our WW2 effort.

They should also be negotiating with the new Indonesian president to ensure that the peoples of Timor-Leste, West Papua, Aceh and Indonesia who have suffered at the hands of the TNI receive justice and compensation for the crimes committed against them. This won't happen any time soon because US corporations are making a lot out of West Papuan resources that they have been taking since the 1960s. And sadly, when the US says "Jump!", Australian gutless leaders always ask "How high?". That is why we are involved in yet another US instigated war in Iraq.

The CIA gave much assistance to the Indonesian military during the overthrow of the Sukarno government and the installation of the Suharto dictatorship. Indonesia and Israel have had rogue regimes for far too long and the bloodshed and suffering caused by them will continue because the US Military Industrial Complex condones their behaviour. Our current Coalition and ALP leaders lack the gumption, the integrity and the courage to say no to US (as well as Indonesian and Israeli) leaders. This cringing behaviour in the face of such human rights violations and unfairness is a source of great shame to Australians who believe in international justice and human rights.

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