

A 100 billion dollar tale of piracy in the Timor Sea

Timor-Leste demands redress over unfair treaty with Australia



Although it sits on a vast undersea gas reserve, Timor-Leste remains deeply impoverished (file picture: Wikimedia Commons)

- Michael Sainsbury, Bangkok
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Deep under the Timor Sea, there is a huge reserve of gas. Geologists now believe it is worth upwards of US\$100 billion; a figure more than twice the amount estimated by Australia as recently as 2006. It is perhaps ironic that the nation with the strongest claim to ownership of that gas, by dint of proximity to it, is Timor-Leste, which is also among the world's poorest nations.

But will it ever get the benefit of it?

There have been numerous treaties over the last 42 years between Australia, Indonesia and Timor-Leste, regarding the fate of the gas. All of them have heavily favored Australia. None of them have been in accordance with international maritime boundaries and laws. Australia has sought to protect these favorable borders using means that have been illegal and unethical at times - not to mention mighty un-neighborly.

The last treaty signed with Timor-Leste in 2006, known as CMATS, is now under dispute at the UN Permanent Court of Arbitration, the PCA.

CMATS was based on two earlier treaties. These were inked with Indonesia's Suharto dictatorship in 1972 and 1989, and since dismissed by many lawyers as illegal. The treaties carved up the seabed between the two countries at a time when Indonesia was illegally occupying Timor-Leste, an occupation that only Australia among its international peers recognized.

There is much at stake. Impoverished Timor-Leste, which is 95 percent Catholic, would obviously welcome a massive boost in assets and income, as would any country, including Australia.

But Australia has even more to worry about. Its greatest fear is that if its 2006 treaty with Timor-Leste comes unstitched, then Indonesia, its vast northern neighbor, now far wealthier and more powerful than it was in the 1970s and 1980s, may want to renegotiate its own maritime borders with Australia - and that has far reaching strategic and economic implications.

"Well, they didn't have to sign the treaty, no one forced them to," Alexander Downer, Australia's Foreign Minister from 1996-2007, now says of Timor-Leste.

It was Downer who made the key decision, only two months before Timor-Leste's independence in 2002, to "withdraw" Australia from the maritime jurisdiction of the PCA.

Now that some gas revenues are coming in, and under pressure from UN negotiators, Australia has agreed to hand over a larger share of them to Timor-Leste. But it has refused to budge on a 50-year clause that prevents Timor-Leste from challenging the boundaries established with Indonesia; boundaries that one former Indonesian foreign minister described as "taking Indonesia to the cleaners".

Timor-Leste has long been unhappy with CMATS. But then last year, the dispute stepped up several gears when it went public with allegations of spying by Australia during the treaty negotiations.

Timor-Leste claims that Downer authorized the installation of wiretapping equipment in the walls of the new cabinet room in the capital, Dili. The building was being constructed, ostensibly as part of an "aid project," in 2004 as the treaty negotiations were commencing. The allegations originated from an intelligence officer who worked for Australia's overseas spy agency, now known in the PCA case as Witness K, to his government-approved lawyer Bernard Collaery in 2008.

Timor-Leste took the case to the PCA last April. Then on December 3, more than a dozen officials from Australia's domestic spy agency raided Collaery's office and removed many high-level, evidential documents relating to the case. They also raided Witness K's home, canceling his passport.

The government claims this was done for national security reasons. The following day, Australia's attorney-general George Brandis, under parliamentary privilege, stated the raid had nothing to do with CMATS. But Collaery, an approved lawyer for both domestic and overseas intelligence officers, told ucanews.com this claim is rubbish; there were no national security grounds for the search. He added that Witness K "was simply fulfilling his obligation as a Commonwealth officer to report illegal acts".

At the time, Australian and Timor-Leste officials were debating how Witness K would be handled, including a possible witness protection program, so the December raid does look extremely pre-emptive.

It was hardly surprising that later in December, Timor-Leste's Prime Minister Xanana Gusmao sent both an official letter and his foreign minister, Jose Guterres, to Canberra, demanding a re-negotiation of CMATS and an explanation for the alleged spying.

In a piece of especially inept statesmanship the incumbent prime minister, Julia Gillard, sent diplomat Margaret Twomey as her envoy for a three-hour meeting in Dili. Twomey pleaded for the East Timorese

to cease their legal actions but it fell on deaf ears. The fact that Twomey was the Australian ambassador in Dili when the alleged spying took place, and the Timor-Leste government nursed its own suspicions about her role, would hardly have helped.

Looming over all this is the cozy relationship between Canberra and Woodside, Australia's biggest home-grown oil and gas company. Woodside controls Great Sunrise, the largest gas field opened so far in the disputed territory. Woodside has been "saved" once before, by government fiat, from a takeover by rival Royal Dutch Shell in 2001. More recently it has also enjoyed consultancy services from Downer's company, Bespoke Approach.

There can be little doubt that the well-connected, armor-protected Woodside will have strongly lobbied the Australian government for the best deal in the Timor Sea; even less doubt that its requests would have been favorably heard.

This furore is just the latest sign of the Australian government's current struggle to understand or deal effectively with its Asian neighbors. In recent months it has fallen out with Indonesia on the question of illegal immigrants. More damagingly, it has emerged that Australia spied on Indonesian President Bambang Susilo Yudhoyono, his wife and others.

Australia's new conservative government, led by Tony Abbott, has also decided to slash its aid budget by a cumulative A\$4.5 billion in coming years, the vast majority of which goes to its nearby Asian neighbors.

And in Timor-Leste, Minister for Energy and Petroleum Alfredo Pires has said that the episode is turning hearts and minds against Australia, even though Australia's defense forces came to its rescue in its desperate battle for independence in 1999.

Referring to the spying allegations, Pires said: "It was all done under the cover of an Australian aid project. Now we are even suspicious of Australian aid. Many people, particularly young people, have become very disillusioned with Australia over this."

The bottom line is that once again the people of Timor-Leste, who have been through so much for so long, are just collateral damage.

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