

In Australia, Exposing Morally Bankrupt Government Action Could Earn You a Jail Sentence

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People who expose government wrongdoing should be thanked, not sent to prison. It really is as simple as that.

So how incredibly disappointing – and let’s face it, a little terrifying – that the Turnbull Government’s Attorney-General, Christian Porter, decided to approve the prosecution of Witness K and his lawyer Bernard Collaery. The pair have been charged with conspiring to disclose secret information in breach of the intelligence act.

[If we value our democracy and believe in fairness, we must challenge this decision and have it reversed.](#)

Fourteen years ago the Australian Government installed listening devices into the cabinet room of the Government of East Timor. This covert operation was designed to help our government secure an unfair advantage over the fledgling nation, effectively short-changing it out of billions of dollars in gas and oil revenue.

Then Foreign Minister Alexander Downer had already withdrawn Australia’s recognition of the maritime boundary jurisdiction of the International Court of Justice, but turning his back on the independent umpire seemingly wasn’t enough to secure a lucrative deal for Australia. So he approved the covert operation which was carried out under the guise of an AusAid project.

The already uneven negotiations unsurprisingly produced a grossly unfair treaty that ignored the issue of sovereignty and instead focused on how to carve up the massive Greater Sunrise gas field – a field that is located much closer to Timor than Australia.

It’s likely that the use of espionage capabilities to help rip-off a developing nation left a bad taste in mouths of a number involved. Independent MP Andrew Wilkie’s recent speech in Parliament would also suggest there was disquiet within the intelligence community about diverting resources from counter-terrorism activities in Jakarta to do so.

But the final straw for one of the high ranking ASIS officers involved was when Alexander Downer retired from politics and took a paid consultancy gig for Woodside Petroleum – the very company that stood to benefit the most from the exploitation of the Greater Sunrise field.

This officer, now for legal reasons only referred to as ‘Witness K’, didn’t take his story to the media – simply lodged a complaint through the formal channels to the Inspector General who referred him to an ASIS approved lawyer, Bernard Collaery.

After a number of years of deliberation, Collaery came to the conclusion that a “conspiracy to defraud” had occurred and that Witness K’s concerns could and should be dealt with.

In 2013, just before the matter was to be raised in arbitration proceedings at The Hague, the Australian Government raided Mr Collaery’s office and seized Witness K’s passport which prevented him from giving evidence in the arbitration.

The International Court of Justice subsequently ordered the Australian Government to stop interfering with East Timor’s communications. It was a major embarrassment for the Australian Government, but fortunately it helped the Timorese get Australia back to the negotiating table to revisit the oil and gas treaty. Finally, a new and far better treaty was signed earlier this year which will establish permanent maritime boundaries between the two nations.

Had Witness K never spoken up, the Howard Government would have been successful in its efforts to short-change our neighbour East Timor out of billions and billions of dollars in oil and gas revenue.

It is not in the public interest for Witness K and Collaery to be prosecuted. Who are the victims of their supposed "crime"? It certainly wasn't the Timorese. At the time, their tiny nation was the poorest in Asia. The infant mortality rate there was 55 deaths in every 1,000 babies under the age of one (Australia's by comparison was 5).

As for the Australian public, we deserve to know that our government conducts espionage not just for national security but also for pure economic gain – this is a broader debate that we need to have.

Embarrassing a government or particular politicians who have acted in morally-bankrupt and legally dubious ways shouldn't be punishable by imprisonment. Yet, that's what this seemingly boils down to – it's the Turnbull Government trying to send a message that it will simply not tolerate anyone breaking ranks to speak out.

As the nation's first law officer, the AG Christian Porter, has the ability to shut this prosecution down and that's exactly what he should do.

It's vital that members of the public find their voices. We've been sleep walking our way into a police state – led by the nose by the Turnbull Government and a Labor opposition that is derelict in its duty. But the alarm bells are starting to ring.

Solidarity protests for Witness K and Bernard Collaery will be held in Canberra, Melbourne and Dili this week to coincide with the directions hearing that was scheduled in the ACT Magistrates Court.

The Timores activist organising the protest had a stark warning over the weekend for the Australian public - they said the prosecution reminded them of how they were targeted under the Suharto dictatorship.

The AG is taking us down a troubling path and we need to convince him to turn back.

Tom Clarke is a spokesperson for the Timor Sea Justice Campaign.