

Global Opinions

A spying scandal exposes Australia's immoral behavior toward East Timor

by Ramesh Thakur and Richard Butler August 10

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Australia is leading the [Western world in enacting tough new laws](#) to curb foreign interference and influence-peddling in domestic affairs. The primary intended target is China.

Ironically, Australia is [now prosecuting of a former member](#) of the Australian Secret Intelligence Service (ASIS), who allegedly [exposed breaches of domestic and international laws](#) by Australian intelligence operatives in East Timor.

Australia, with U.N. assistance, was the midwife to the bloody liberation of East Timor in 1999. The Timorese were appropriately grateful. But in the negotiations with Australia from 2002 to 2004 over maritime boundaries and commercial rights to oil and gas exploration in the Timor Sea, Canberra took a tough approach.

When East Timor suggested that the dispute be referred to the International Court of Justice (ICJ), Australia, a self-congratulating champion of a [“rules-based”](#) order, withdrew from the court's maritime boundary jurisdiction.

Meanwhile, Australia's foreign aid agency, which then operated under the oversight of Foreign Minister Alexander Downer, was providing post-conflict reconstruction and development assistance to East Timor. In April 2004, ASIS placed operatives among aid workers deployed to Dili, the capital, by AusAid in order to embed surveillance equipment in the cabinet and ministerial offices of the Timorese prime minister, Mari Alkatiri. Through this action, Canberra gained sensitive information on East Timor's strategy. This gave it considerable advantage in negotiations. With its treasury almost empty and in desperate need of the oil revenue, Dili agreed to a deal, in May 2005.

The spying saga exposes the use of intelligence authorized by the Australian government to obtain information to help it prevail in an inherently lopsided negotiation: To benefit private enterprise, Canberra used its intelligence service to bully its neighbor.

With the defeat of the government of Prime Minister John Howard in 2007, Downer landed a well-paid consultancy with [Woodside](#), a key beneficiary of Australia's negotiating efforts for access to oil and gas fields in the Timor Sea.

Subsequently, following prescribed procedures, the Australian head of the technical unit in the 2004 bugging of the offices — described in court documents only as “Witness K” — [communicated his unease](#) about aspects of the

operation to the Inspector-General of Intelligence and Security.

On April 23, 2013, East Timor initiated [proceedings at the Permanent Court of Arbitration](#) in The Hague to cancel the bilateral agreement, arguing that Australian bad faith in the negotiation had put it at unfair commercial disadvantage. Australia castigated China for defying the same court's 2016 [ruling in its maritime dispute with the Philippines](#). Canberra-based lawyer Bernard Collaery, representing both East Timor's interests and acting as "K"'s personal lawyer, organized for "K" to travel to The Hague to give evidence.

On Dec. 17, 2013, Dili launched a side appeal to the ICJ against Australian seizure of its confidential communications with its lawyer. In a [humiliating rebuke](#) by the world's top court on March 3, 2014, Australia was ordered to seal and not use any of the contents of the seized documents and not to interfere in communications between East Timor and its legal advisers.

In March 2018, following a process of compulsory conciliation between East Timor and Australia, [a new treaty was signed](#). A few months later, charges were [brought against "K" and Collaery for allegedly violating Article 39 of the Intelligence Services Act \(2001\)](#).

Andrew Wilkie, a member of Australia's parliament and a former intelligence analyst who [resigned](#) from his job after Canberra distorted intelligence to justify the 2003 Iraq War, was the person who [revealed](#) that "K" and Collaery (a former attorney general of the Australian Capital Territory) had been charged with conspiring to disclose classified information.

Under Australia's new laws, a journalist could be prosecuted for having a copy of "K's" 2013 affidavit; publishing it could lead to up to 25 years in jail. Greg Barns, spokesman for the Australian Lawyers Alliance, [warned](#) that "the effect on media is quite chilling, but in fact that's the whole idea ... It's part of a pattern."

A final irony is that Prime Minister Malcolm Turnbull first achieved international fame in 1986 as a [young lawyer who successfully defended the right to publish Spycatcher](#), an exposé of the British secret service by ex-spy Peter Wright.

It's clear that the Australian spying was illegal and brutally selfish. Wilkie notes: "One of the richest countries in the world forced East Timor, the poorest country in Asia, to sign a treaty which stopped them [from] obtaining their fair share of the oil and gas revenue."

Now, in an Orwellian twist, the country is seeking to make it a crime for anyone to reveal its conduct.