

# Witness K became a scapegoat of the powerful

Susan Connelly -*Sydney Morning Herald* – 21 June 2021

<https://www.smh.com.au/politics/federal/witness-k-became-a-scapegoat-of-the-powerful-20210620-p582jv.html>

Witness K's three months suspended sentence for conspiring to reveal classified information about an alleged spying operation arose from his guilty plea, which required some form of consequence.

A non-custodial sentence is welcome, indicating the general realisation that he is no criminal, but this outcome raises many questions.

The Australian government spied on Timor-Leste during Timor Sea negotiations for the financial gain of certain petroleum companies – major donors to Australian governments. Witness K, one of the spies, was prosecuted for conspiring to make this known, confidentially, in the Permanent Court of Arbitration in The Hague, where the Timorese government was mounting a case against Australia's espionage.

At his sentencing hearing, Witness K's act – a deliberate breach of his obligations to uphold the secrecy required of intelligence officers – was described as “not trivial”.

To any person unfamiliar with the complex saga of Australia's espionage against its impoverished trading partner, such an outcome for a violation of intelligence secrets may seem extraordinarily mild and adds to the questions about the spying: who ordered, financed and enabled it? Who benefited and to what extent? What other weak and vulnerable states does Australia spy on for economic advantage? What corporate entities greatly influence government? Are there further negative aspects of Australia's relationships with other nations or corporations?

Yet there are deeper questions to ask. What do the prosecutions of Witness K and his lawyer Bernard Collaery mean? What lies beneath the political “crucifixion” of these two men? A particularly useful tool for interpreting human behaviour is to see it through the lens of scapegoating.

This ancient cross-cultural human convention can be more readily understood now although it is still widely practised, personally and internationally. The philosopher Rene Girard identifies certain features of scapegoating: crisis, crime – the criteria for the scapegoat – and violence. A crisis is a problem that brings threat and fear. In Witness K's case, the revelation of the 2004-2006 spying set in train an internationally supervised process, fiercely resisted by Australia, that resulted in the 2018 Maritime Boundary Treaty.

## Minister to lobbyist

The 2006 treaty that was the subject of the spying had contained the requirement that TimorLeste refrain from even mentioning the word “border” for 50 years, until 2056. No wonder there was a government crisis when Witness K complained to his superiors that the spying wasn't fair, as the foreign minister who had ordered it had later become a lobbyist for Woodside, the company that was to get the largest windfall from the treaty. An unwanted border, loss of revenue, loss of face, piercing questions – a crisis indeed.

The second aspect of scapegoating is the decision to treat as a crime whatever happened to cause the crisis. Australian financial and reputational threat was met by criminal sanction. The “crime”, however, is depicted by government as the revelation of the spying, not the act of spying itself.

Yet the espionage was clearly outside the scope of the “proper performance of the function” of the intelligence service. It was “a conspiracy to defraud” commissioned within the ACT and therefore against the ACT Criminal Code. The crime became the conscientious opposition to a swindle.

Witness K and Collaery were depicted as the wrong-doers and became the scapegoats.

Scapegoats bear certain criteria. They are those who are outside the dominant group, different, and in a weaker position. Witness K’s necessary anonymity makes the accusation of endangering “national security” easier. Both he and Collaery are pitted against the behemoth of threatened politicians, entrenched privilege, and a swathe of recent national security laws designed for terrorists.

Scapegoating is violent. The dominant group employs various forms of violence to hound the scapegoat. In this case, the violence is relentless, omnipresent, designed to exhaust and devour.

Both Witness K and his lawyer have suffered greatly regarding, but not limited to, their good name, employment, financial security, stress levels, health, and effects on their families. The violence seeps into the community, as the refusal to explain how the public interest is served and secrecy, delays, and concealment of evidence weaken the concept of fairness, and reduce trust in democratic structures.

Girard discovered that the gospel accounts of Christ’s death do something unknown in ancient literature. They specifically place the responsibility for the scapegoating of Jesus of Nazareth directly on to the political and religious leaders, and the crowd. The dominant groups are shown in the text to be guilty, not the scapegoat. There is a leap in human consciousness here – scapegoats are innocent. They are not the cause of the crisis. The espionage against the Timorese people and the prosecutions of two men of conscience will continue to raise more questions. So why do we not have a federal independent commission against corruption to investigate such matters?

**Susan Connelly is a Sister of St Joseph. She has been a long-time close observer of Timor-Leste (East Timor) issues.**