

50. Scheduled Hearing – 17/18 May 2021

Bernard Collaery – Appeal Against Secrecy



Demonstration at Archibald Fountain, Sydney

Under the National Security Information Act (NSI), the prosecution of Bernard Collaery is shrouded in secrecy. Even his lawyers have had to acquiesce to the requirements of the ACT, under whose strictures Mr Collaery is one of the first few Australians to be tried. Secrecy is being used to enable the government to continue to publicly conceal admission of the outrageous espionage committed against Timor-Leste in 2004. The secrecy then allows the government to admit to spying on its trading partner in closed court so that it can sustain its charges against Bernard Collaery. If Australia didn't spy there would no sense in prosecuting Collaery for speaking out.

Added to the inordinate secrecy, the NSI Act allows for "greater weight" to be given to the Attorney's-General's evidence than to that of the defence. This is at odds with the expected even-handed nature of justice in Australian courts. Kieran Pender, of the Human Rights Law Centre, said that the [NSI ACT is "broken"](#).

Last year Labor leader [Anthony Albanese stated](#): "The idea that there should be a prosecution of a whistle-blower, for what's a shameful part of Australia's history, is simply wrong." This week the ACT's Labor Senator, Katy Gallagher, along with the Labor MPs for Canberra—Alicia Payne, Andrew Leigh and David Smith, have issued a [media statement](#) condemning the prosecutions of Witness K and Bernard Collaery. They referred to the secrecy and the inordinate cost, and warned of the effects on democracy.

Labor has not yet said what approach it would take in government.

Will the Court lay aside much of the secrecy, or uphold the government's desire? If Collaery's appeal is unsuccessful, it will go to the High Court, meaning that his trial would be further delayed.

There was a demonstration in Canberra and a Pop-Up Protest in Sydney at various venues on Monday 17th. Speakers at the Canberra Rally were:

Kieran Pender, senior lawyer from the Human Rights Legal Centre
Kristine Klugman, President of Civil Liberties Australia
Bishop George Browning, former Anglican Bishop of Canberra and Goulburn,
Sophie Singh, from the Refugee Action Campaign ACT steering committee.



Rally in Canberra in front of Supreme Court



Demonstrators at Sydney Town Hall



Canberra Rally