

## FIGHT TO HAVE JOHN HOWARD'S TIMOR GAP DIRTY LITTLE SECRETS RELEASED PLAYS OUT THIS WEEK

Media Release from the office of Senator Rex Patrick, 9 May 2022

Independent Senator Rex Patrick will take time out from the election campaign to fight for John Howard's Timor Gap dirty little secrets to be made public. The hearings are set down for Tuesday and Wednesday in the Adelaide Registry of the Administrative Appeals Tribunal (AAT).

"These proceedings seek to make public details of the Howard Government's year 2000 strategy to steal oil and gas from one of the most impoverished countries in the world, Timor-Leste," Senator Patrick said. "It seeks to uncover documents that commenced Australia's most abhorrent and disgraceful foreign relations chapter, where the Howard Coalition Government, whilst purportedly negotiating in good faith with the Timorese, used the Australian Secret Intelligence Service to bug the Timorese negotiating team's internal discussion."

"I'm fighting to have the entire sordid affair disclosed to the Australian and Timorese peoples."

The Government takes the position that the release of these 20-year-old documents will harm Australia's international relations, but beyond that short assertion they have not said why. The Attorney-General has issued a certificate to completely suppress their argument from Senator Patrick and the public.

"It is continued secrecy in relation to these historical matters that gives rise to the only genuine risk of damage to Australia's international relations, as it creates the unfortunate impression that, after all these years, Australia still has something to hide," Senator Patrick said.

The history of Australia's interaction with Timor has been littered with conduct that has been harmful to the Timorese and our relationship with them.

During the Second World War Australia, without permission, landed military forces in and occupied neutral Portuguese Timor at the request of the British Government and in doing so ultimately caused the Japanese Empire to invade Timor with a resulting loss of up to 60,000 Timorese lives.

- From 1975 to 1999 Australia, alone in the world and with a mind to taking the oil and gas resources of the Timor Sea, encouraged and lent support to Indonesia's invasion and occupation of Portuguese Timor in circumstances where independence for Timor was a real and preferred alternative. The result for the Timorese was a death toll at the hands of the Indonesians of 204,000 or 31% of the population, the largest death toll relative to population since the Holocaust.
- In 2000, during the transition from Indonesian occupation and Timor's independence, Australia spied on the Timorese leadership. Mr Ramos-Horta, the current and newly minted President of Timor-Leste then expressed his concerns on at least two occasions to then shadow minister for Foreign Affairs, Laurie Brereton, about Australian intelligence gathering against their leadership. Foreign Minister Alexander Downer subsequently indicated that the spying was occurring.
- In the face of Timor-Leste becoming an independent state on 20 May 2002, and Australia knowing that the Timor Gap Treaty between Australia and Indonesia would have to be re-negotiated with an UNCLOS starting point of the medium line, on 22 March 2002, the Australian Government withdrew itself from the maritime boundary jurisdiction of the International Court of Justice and the International Tribunal on the Law of the Sea. With the newly independent country needing revenue from the resources under the Timor Sea, good faith negotiations were entered.

- In 2004 Australia spied on the Timor-Leste negotiating team to gain an unfair advantage in the negotiations.
- When Timor-Leste found out about the spying it sought to have the 2006 CMATS treaty declared invalid on the basis that the negotiations were infected by fraud committed by Australia. During the arbitration process, on 3 December 2013, the Australian Government improperly raided and seized documents from the legal offices of Timor-Leste's lawyer in the proceedings – in an act of criminal trespass noting that the action was in breach of the UN Convention on Jurisdictional Immunity of States and their Property. This resulted in proceedings being initiated in the International Court of Justice with the Court making provisional orders against Australia that included an unprecedented direction not to spy on Timor-Leste in relation to the sea boundary negotiation.
- In April 2016 Timor-Leste launched compulsory conciliation under the Article 289 of the Law of the Sea Convention. Australia made six objections to compulsory conciliation with the Commission dismissing them all.
- A new Treaty was eventually agreed in 2019.

Australia's relationship with Timor has suffered considerable damage from all of this. Former President, His Excellency Xanana Gusmau, has given evidence to the Tribunal by way of affidavit that the political leadership in Timor, and the broader Timor-Leste community, is aware of these events.

Senator Patrick said: "The Timorese know what we did was wrong, the International community know what we did was wrong and most Australians know what we did was both wrong and un-Australian. Only in the minds of Government ministers and officials is all of this OK."

"Against this ugly international relations backdrop, it lacks all credibility for the Government to assert that what was decided by the 2000 Howard Cabinet could cause harm. In the context of everything that has happened, revealing the content of the Cabinet Submission would be analogous to revealing that a pebble had been thrown at a window of a house some time before the Australian Government deliberately initiated an avalanche that had flattened the town in which the house was located."

The public hearings will take place in the AAT this week whilst further secret hearings will take place at some later stage.

"This whole document access refusal has been a debacle from the start," Senator Patrick said.

"Initially the Government said that releasing the documents would cause harm to Australia's international relations. Then they flipped and said it would cause harm to the security of Australia. Then they flipped back to international relations. It has been like watching Pauling Hanson in a Senate debate".

"Initially the Government said that none of the documents could be released. As soon as I made an application to challenge this decision, and without any submission being made in the proceedings, they backflipped and released a lot of the documents to me," said Senator Patrick.

"On the 28 April, the Attorney-General issued a certificate to suppress all of the Government's evidence in the case. On 3 May she had to withdraw the certificate after having spelt her name wrong twice in the original certificate. She then reissued a new certificate, free of spelling errors".

"It's just been one big cluster fiasco," said Senator Patrick.

"The fact that the Australian Government continues to suppress the truth as to what happened in the Timor Gap debacle is an affront the Australian public who are entitled to know. The fact that the Government has sought to close the Tribunal is another coffin in the nail of open justice should be of great concern to all Australians."

Senator Patrick will self-represent at the Tribunal hearing tomorrow. The Government will be represented by a taxpayer funded commercial barrister.

Media who are interested in listening in can contact our office on 08 8232 1144.