

Oil, Spies and Audiotape in East Timor

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Contributor Perspectives

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(NICOLAS DELIAUNAY/AFP/Getty Images)

The Australian Capital Territory's Magistrates Court, as the country's tribunal for "less serious criminal matters" is known, begins an unusual hearing July 25. The government is prosecuting two men with no prior record: lawyer Bernard Collaery and his client, an Australian Secret Intelligence Service (ASIS) operative named only as "Witness K" in the indictment. The charge is that they conspired to violate Section 39 of the Intelligence Services Act by disclosing information about ASIS. The government, citing national security, wants the trial held behind closed doors. But a secret trial would do less for public safety than for the reputation of the politicians involved.

The case has all the elements of a John Grisham blockbuster: spies, intrigue against a foreign government, a victimized lawyer, public servants on oil company payrolls, witch hunts, harassment of journalists, suspected bribery, betrayal and duplicity on a grand scale. No wonder the politicians don't want the public to know. Yet nothing remains secret for long in Australia, thanks to its egalitarian roots and to an aggressive press that new legislation is trying to muzzle.

The Origins of a Scandal

Ladies and gentlemen of the jury, permit me to summarize the case from just before the beginning. We'll go back to November 1973 and the Arab Summit Conference in Algiers in the wake of the October Arab-Israeli War and the Arab oil embargo against Western countries supporting Israel. I remember meeting young men at my hotel from Portugal's African colonies – Angola, Mozambique and Guinea Bissau. They had come to plead with the Arabs to keep withholding oil from Portugal even if they restored supplies to the United States. The conference's declaration of Nov. 28 included the commitment to "sever all the diplomatic, consular, economic, cultural and other relations with South Africa, Portugal and Rhodesia of those Arab States which have not yet done so." Economic hardship in Portugal produced the Carnation Revolution the next April, which overthrew the dictatorship and led to Portugal's abrupt withdrawal from its colonial empire after four centuries.

Civil wars ensued in the largest colonies, Angola and Mozambique, while Portuguese East Timor, half of an island between Indonesia and Australia, awaited its fate. Indonesia claimed the territory, though the Timorese favored independence. The

United States decided the issue on Dec. 6, 1975, when President Gerald Ford and Secretary of State Henry Kissinger descended on the Indonesian capital, Jakarta, to inform military dictator Suharto that East Timor was his for the taking. A cable from the U.S. Embassy quoted Kissinger on the legality of Indonesia's use of U.S. weapons in invading East Timor: "It depends on how we construe it; whether it is in self-defense or is a foreign operation." East Timor, which had no army, did not attack Indonesia, but the self-defense ruse was sufficient for Suharto to invade as soon as Ford and Kissinger departed. Indonesian forces killed more than 200,000 people in the operation – one-third of East Timor's population – suppressed all civil rights, confiscated land and implanted settlers from Java.

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After killing five Australian journalists, Indonesia banned the international press from the territory. I posed as a teacher to visit in 1992, when I met the most terrorized population I had encountered anywhere, including Saddam Hussein's Iraq – a high standard of fear. A few years later, Australia endorsed the occupation by signing the Timor Gap Treaty with Indonesia, a deal in which it got a share of East Timor's offshore oil and natural gas reserves. The world looked away as the two regional superpowers robbed the nation of billions of dollars. Student protests against Suharto's corruption and repression forced his resignation in 1998, and his successors granted East Timor a referendum on independence that passed with 78 percent approval. After riots and massacres by Indonesian troops, the United Nations administered the area until it gained full independence on May 20, 2002, becoming officially known as Timor-Leste.

Something's Bugging East Timor

Australia stepped in with a gesture to compensate for stealing the country's oil, allocating AusAid funds to reconstruct government buildings in the capital, Dili, in 2004. Part of the work, unbeknownst to East Timor's fledgling Cabinet, involved installing microphones for Australian intelligence eavesdropping. The agent who ran the operation was none other than Witness K. As the tapes whirled in the Timorese Cabinet office, Australian negotiators worked in Dili on a treaty to redefine the maritime border and to allocate underwater oil and resources in the Sunrise field. Not surprisingly, the final agreement heavily favored Australian interests, and especially the Woodside Petroleum Ltd., which bills itself as "Australia's largest independent oil and gas company." Each country would hold a 50 percent stake in the field, despite the fact that most of its energy reserves lay well within East Timor's territory.

Some ASIS personnel resented being shifted to commercial espionage from counterterrorism investigations. At the time, after all, jihadist group Jemaah Islamiyah was bombing the Australian Embassy in Jakarta, having killed 88 Australians in an

attack on the Sari nightclub in Bali two years earlier. They let it lie until Ashton Calvert, secretary to the Department of Foreign Affairs and Trade at the time of the Dili negotiations, became a director of Woodside Petroleum. Foreign Minister Alexander Downer's engagement as a Woodside consultant in 2008 piqued their resentment anew. Witness K reported what he saw as breaches of government ethics to his superiors, who advised him to see Collaery, a government-approved lawyer. ASIS then fired Witness K – the usual fate of those who question their superiors' actions.

In 2012, when news of the bugging reached the media, East Timor realized it had been duped and sought redress at the Permanent Court of Arbitration in The Hague. It hired Collaery as legal counsel. Collaery intended to ask Witness K to testify in 2013, but the Australian Security Intelligence Organisation seized his passport to prevent him from leaving the country. The state did not accuse Witness K of any crime until this year, when a new oil treaty with East Timor granted the tiny country most of the rights it was rightfully entitled to all along.

The Price of Speaking Up

The government brief against Witness K cited several Australian Broadcasting Company journalists it said Collaery had spoken to about the Dili bugging scandal. It did not, however, name the reporter who broke the story in *The Australian*, Leo Shanahan. The omission prompted one Australian senator to complain that "the prosecution [is] trying to protect certain media organizations that might be sympathetic to the government." (The paper's proprietor is one of Australia's richest and most powerful sons, Rupert Murdoch.)

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If the trial proceeds in camera and the court finds Collaery and Witness K guilty, they will join the legion of civil servants, including Jeffrey Sterling of the CIA and Sarah Tisdall of the British Foreign Office, whose commitment to better government got them imprisoned.

I remember as a child admiring Robert Emmet's speech to the English court that sentenced him to death in 1803 for seeking Ireland's independence: "When my country takes her place among the nations of the earth, then, and not till then let my epitaph be written." Epitaphs may be written, but the struggle for fair treatment does not end with independence.