

Australia set to face 'Dreyfus moment'

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It started, in the public consciousness, with that picture, splashed on the front page of *The Canberra Times* in 1989. The foreign ministers of Australia and Indonesia, Gareth Evans and Ali Alytas, drinking champagne, toasting the signing of the Timor Gap Treaty that divided the oil of the Timor Sea between the two countries on a maritime boundary whose line has moved back and forth several times since that signing.

Timor Leste - 'Timur Timor' under Indonesia - was just struggling towards independence and was eventually allocated just 18 per cent of the oil revenues, in the subsequent Treaty on Certain Maritime Agreements in the Timor Sea (CMATS) which the lawyers of the Solicitor-General's Office in Canberra had worked on, with their Indonesian counterparts hard at work on a similar exercise.

The real bombshell for Australia was to come later, when it became public that the Cabinet Office in Dili, seat of the hardly-there Timor Leste cabinet, had been bugged on the orders of the subsequent Foreign Minister Alexander Downer.

And further revelations, when 'Witness K' the public servant who headed the bugging operation, confessed what he had done, a classic whistleblower who obeyed his conscience.

Bernard Collaery, barrister, one-time Attorney-General for the territory's toytown Legislative Assembly, author of *Oil Under Troubled Waters* has been defending 'Witness K', and will do so in the next hearing, scheduled for May 17 and 18 in the Canberra's Court of Appeal.

And at the first full day of the Sydney Writers Festival, Collaery is addressing a packed audience. "Allocation exhausted," says the program. "Sorry, full up," say ushers at the door, in the Blacksmith's Workshop, while Collaery signs a banner 'Save Julian Assange'.

His topic is "On Rescuing" and Collaery can't say much about the upcoming case. He notes there are lawyers in the audience, but he wants to question how moral is it to try to impoverish further a country like East Timor, a rural economy with distressing infant mortality.

Witness K, he says, was "a very courageous person" but the law remains you are not obliged to rescue your fellow citizens. No one is obliged, unless they live in the NT, to rescue anyone from danger or death, since under Australian common law it is the state that directs or mandates our duties; we're not obliged to rescue someone in peril.

It is, he says, his voice husky with emotion or a cold, "Australia's Dreyfus moment", and he quotes A.C. Grayling that we may be moving towards "selective dictatorship".

Civil code countries like France, Collaery says, are different to the Anglosphere, where English Common Law evolved from perceptions of duty, without a moral code but with the case for necessity. He quotes the case of the shipwrecked sailors, floating starving at sea, who killed and ate the cabin boy. Rescued, they were tried for murder and acquitted on the grounds of necessity.

And he quotes the case, nearer home, of the Canberra father, who hearing his son was about to try heroin for the first time, seized a cricket bat and smashed down a Queanbeyan drug dealer's door, to drag his son out.

What should take the place of 1000 years of Common Law justice? Collaery believes the young favour personal responsibility, movements that take place outside the parliament, as are now taking place increasingly.

Witness K is a Canberran, as is Collaery. Canberrans, who tend to stick together, must wish them well while hoping they will never be faced with a similar personal moral quandary.

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