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Cape Breton Post > Opinion > Columnists

## Australia's surveillance of East Timor too shameful to share

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Published on December 12, 2013

### 'The poor cannot afford justice'



And now for something completely different: A spy story that isn't about Edward Snowden's disclosures and the U.S. National Security Agency's surveillance of everything and everybody. This one could come straight out of a 1950s spy thriller: A microphone buried in a wall, a listening post manned by people with headphones, and transcripts of secret conversations delivered to negotiators.

Now it's true that Australia is a member of the "Gang of Five," more formally known as the "Five Eyes" (the United States, Canada, the United

Kingdom, Australia and New Zealand), which share most of the information that they acquire through hi-tech mass surveillance. That's the kind of spying that Snowden's leaks are about, and whatever Australia picks up through this process it presumably shares with its co-conspirators.

It was in this context that Australia listened to the phone conversations of Indonesia's president, Susilo Bambang Yudhoyono, his wife and eight potential successors. When Indonesia recalled its ambassador from Australia's capital city of Canberra and protested, Australian Prime Minister Tony Abbott swatted the protest away with the line they are all using now: "All governments gather information and all governments know that every other government gathers information."

The Indonesian reply was a classic. "I have news for you," said Foreign Minister Marty Natalegawa. "We don't do it. We certainly should not be doing it among friends." He was, he said, deeply unhappy about the "dismissive answer being provided" by the Australian government. So Australia has managed to alienate its biggest neighbour, probably for no advantage to itself, just as the United States has alienated Brazil with the same tactics.

But the kind of spying under discussion here was too shameful to share even with the other four countries of the "anglosphere." It was an Australian-only operation mounted in 2004 to gather information about the negotiating position of a very poor neighbouring country, East Timor (which shares the island of Timor with Indonesia), so that Australia could rip its neighbour off in a

treaty that divided a rich gas field on the seabed between them.

The treaty in question — “Certain Maritime Arrangements in the Timor Sea” — always seemed a bit peculiar. The CMATS treaty gave Australia a half share in the massive Greater Sunrise field, which is said to be worth \$40 billion. But that field lies just 100 kilometres south of East Timor, and 400 kilometres from Australia.

The normal rule on international seabed rights would put the boundary equidistant between the two countries, but that would have given East Timor sovereignty over the entire gas field. Instead, CMATS postponed a final settlement of the seabed boundary for 50 years, and in the meantime gave Australia 50 per cent of the revenue from the Greater Sunrise field.

The existing gas field off East Timor's coast has only about 10 years' life left, and the East Timor government depends on gas revenues for 95 per cent of its income, so it was very vulnerable in those negotiations. The Australian negotiators could exploit that vulnerability because they had daily updates on how desperate their Timorese opposite numbers were: The Australian Secret Intelligence Service had bugged the prime minister's and the cabinet offices.

Four ASIS operatives did the job, pretending to be part of a team of Australian aid workers that was renovating East Timor's government offices. The man who gave the order was Australia's foreign minister at the time, Alex Downer, who now runs a public relations firm that represents Woodside Petroleum, a major Australian company that was the main beneficiary of the treaty. Funny how things work out.

The operation would never have come to light if the former director of technical operations at ASIS, who led the bugging operation, had not had an attack of conscience on learning of Downer's link to Woodside. He told East Timor about it, and the Timorese government then brought an action before the Permanent Court of Arbitration at The Hague demanding that the CMATS treaty be cancelled.

The Australian government's response was to arrest the whistleblower and cancel his passport last week so that he could not travel to The Hague to testify, and to raid the Sydney offices of Bernard Collaery, the lawyer who is representing East Timor before the court.

The documents seized include an affidavit summarizing the whistleblower's testimony at the court and correspondence between Collaery and his client, Timorese President Xanana Gusmao. It's more of the same sort of behaviour: The Australian government has decided to brazen it out.

Can Australia get away with this? Not legally. As Collaery says, “It was a carefully premeditated, involved, very lengthy operation with premeditated breaches of the Vienna Convention on the Law of Treaties, and premeditated breaches of the Vienna Convention on Diplomatic Relations. This is a criminal conspiracy, a break-in on sovereign territory and a breach of Australian law.” And he has three more whistleblowers lined up to testify too.

But the case may still be settled out of court, because East Timor is still desperate. Woodside has not yet started developing the Greater Sunrise field, and it will never do so if there isn't a deal. Offer East Timor another 10 per cent and a promise to go ahead, and it will probably drop the case. The poor cannot afford justice.

*Gwynne Dyer is an independent journalist whose articles are published in 45 countries.*