Independent Senator for South Australia

Releases

Timor Credibility Gap

28TH JULY 2015



Independent Senator for South Australia, Nick Xenophon, has called out Labor for a back-flip on where the sea border between Australia and East Timor should lie, reneging on its previous stance that the border ought to be equidistant between the two countries.

"This back-flip has huge potential implications in the dispute between Australia and East Timor over oil and gas rights and now puts Labor on par with the Coalition in denying basic fairness," said Nick.

There is no defined maritime border between Australia and East Timor. Under international law, the border ought to follow the median line - halfway between the coasts of the two countries. However, in 2002, just two months before East Timor became an independent state, then-Foreign Minister Alexander Downer unilaterally withdrew Australia's recognition of the maritime boundary jurisdiction of the International Court of Justice and the International Tribunal on the Law of the Sea.

In 2006 East Timor was effectively bullied into signing a treaty known as Certain Maritime Arrangements in the Timor Sea (CMATS), which prevents it from determining its own maritime boundary – something to which it is entitled under international law.

At its national conference last weekend Labor adopted a policy that omitted any commitment to negotiating a border on the 'median line' between coastlines. It merely said it would review Australia's stance on recognising ICJ jurisdiction.

"Labor has backed away from a fair deal with one of the poorest countries in Asia, and it needs to explain why. Billions of dollars of natural gas revenue that rightly belongs to East Timor are at stake," said Nick.

"This is not about charity but about justice. The East Timorese are entitled to their own resources north of the median line. This includes the single most crucial resource, namely the Greater Sunrise field, the bulk of which lies just outside the lateral boundary of the Gap. Labor's new position is clearly at odds with the one it adopted when this issue was last considered, in 2000 under then-Shadow Foreign Minister Laurie Brereton."

A boundary equidistant between the two countries - as is the norm under international law - would result in oil and gas reserves north of the median line belonging to East Timor and those south of the line belonging to Australia.

The issue of the final location of the sea border escalated in 2013 when East Timor alleged Australia spied on and bugged East Timor's senior representatives during negotiations for a deal dividing Timor Sea oil and gas resources in 2007. East Timor launched a case in the Permanent Court of Arbitration in The Hague and in December 2013 ASIO raided the offices of East Timor's Australian-based lawyer, Bernard Collaery, as well as the home of a key Australian whistleblower, a former ASIS officer dubbed 'Witness K', seizing many documents. The Australian Government last year agreed to return the documents.

"Labor should state clearly that it will respect international law, agree on a median line, and allow East Timor its rightful share of the oil and gas resources," Nick said. "Australia's national interest would be well-served by having a maritime border with a friendly state that has enough resources to develop peacefully."

Senator Xenophon said Australia's position on the median line was "shameful" because it deprived the East Timorese of the revenue needed to combat serious health issues. For instance, 45 per cent of children under five years of age are underweight, and every second day a woman dies in child birth - one of the highest maternal death rates in Asia**.

"Labor has, in effect, given bi-partisan cover to the Coalition's unconscionable position on this issue, one that is damaging our reputation in the region," said Nick.

Senator Xenophon again called on the Australian Government to "play fair" in the dispute between Australia and East Timor, including allowing Witness K - whose passport has been confiscated - to appear before the arbitration proceedings.

Currently Witness K faces a lengthy jail term simply for telling the truth.

** http://www.abc.net.au/news/2014-08-12/health-workers-in-east-timor-battle-to-treat-preventable-disease/5663508

Janelle Saffin, the initator of the Labor Party resolution, comments:
"Nick is wrong on this as Australian Labor has made it clear that it will
be done within international law, which any lawyer knows is the median
line, and this motion complements previous ones that give effect to this."