

Crikey.com 6 August 2019

It is a national disgrace to see Witness K treated like this

Bernard Collaery

From Witness K's lawyer: 'Let us be under no misapprehension. Mighty forces are at play here to hide dirty political linen.'



Witness K's lawyer Bernard Collaery (Image: AAP/Lukas Coch)

Former Australian spy Witness K has announced he will plead guilty to breaching the Intelligence Services Act by revealing information about the bugging of the Timor-Leste cabinet in 2004. His lawyer Bernard Collaery is now facing trial separately. The below is Collaery's most recent statement on the matter.

It is with a heavy heart that I shall enter the dock of the courtroom where I have spent my entire career supporting the rule of law. Those principles hold that ministers are as bound as any ordinary citizen to maintaining ethical and legal codes of behaviour.

I shall defend my profession, the legal advice that I gave to an honourable client, and the right of the journalists named in the charges to have exposed unlawful conduct *after* the raid on my home and chambers and the seizure of my brief. The prosecution approved by the federal attorney-general is a likely turning point on whether we have equality before the law and true freedom of expression against abuses of power. I shall fight for what I and most Australians believe in.

Let us be under no misapprehension. Mighty forces are at play here to hide dirty political linen. I am familiar with Australia's security legislation and its practical implementation. It is why I was approved to provide independent legal advice to members of the security services.

As I have said before, in providing Witness K with advice it became apparent that the misconduct complained of was a culture unrelated in any way, and, in fact contrary to Australia's national security interests. It was a cheating culture motivated by commercial interests and an abuse of process to utilise our service men and women in its implementation. It threatened to undo the great work done in Timor-Leste by our defence forces in which I am proud to have two family members serving.

I considered K's complaint of a "changed culture" enunciated prior to seeing me, to be genuine and the changed culture it revealed to be unlawful. I wish to emphasise that K had written approval of the Inspector-General of Intelligence and Security (IGIS) to seek my opinion and to take legal action. I stand by that advice. The accusation that K conspired with me is contemptible.

K has endured six long years of enforced seclusion, unrelenting stress and pressure and now this charge. Australia was well served by having a person of K's integrity and character in its security services.

It is a national disgrace to see K treated like this and I hope and pray that K, who acted on my advice, will have the strength to see this out.

I find myself obliged to make a choice as to which jurisdiction I am to be tried in before I may give factual instructions to my lawyers. Under the law introduced to fight terrorism I await permission from the federal attorney-general before I may explain my case to my own lawyers. I have waited 14 months to do this.

You might forgive me for thinking after more than 40 years in the law that I might understand injustice. Clearly, I have more to learn. I can say no more because I am silenced by a law we gave our political leaders to fight terrorism.