

With the persecution of Collaery ended, it's time to hold the perpetrators to account

Bernard Collaery's legal ordeal has been ended by Mark Dreyfus, but those responsible for our actions in Timor-Leste must be pursued.

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Bernard Collaery's immediate ordeal is over. For four years he has been pursued by a vindictive government hellbent on punishing him not merely for helping, with Witness K, to expose the malignant crimes of the Howard government in Timor-Leste, but for trashing basic concepts of the rule of law to do so.

Collaery has borne the weight without bitterness, and always maintained his profound respect for the law. Recently he suggested, entirely against his own interests, that attorneys-general — and he'd been one himself in the ACT — should always be reluctant to ever no-bill prosecutions, given it amounted to political intervention in the prosecutorial process. But he and his legal team fought the efforts of Christian Porter and Michaelia Cash to prosecute him in secret, to use secret information against him, to block his efforts to defend himself — even to the extent of trying to prevent him from choosing his own lawyers.

The conduct of Porter and Cash and their lawyers — which amounted to a complete trashing of the requirement that the Commonwealth be a model litigant — was deeply shameful, even by the grubby standards of the Morrison government, and debauched the office of the “first law officer of the land”.

Along the way, Witness K — who has served his country in ways that a privileged man-child like Christian Porter couldn't begin to comprehend — hit the fence.

Exhausted, ageing, he pleaded guilty and received a short suspended sentence, a deeply offensive outcome even in its tokenistic nature.

All to persecute a man who dared reveal just how vilely and corruptly the Howard government had acted toward the fledgling state of Timor-Leste. That, despite Attorney-General Mark Dreyfus' welcome decision yesterday, remains unfinished business. Some of the perpetrators of the bugging — David Irvine, Ashton Calvert — have died. Others remain — inexplicably — in good public standing in Australia.

Unlike Collaery and K, they deserve to be in the dock, accounting for themselves. In public.

John Howard and Alexander Downer need to be in the dock, explaining who initiated the plan, who approved it, and for what reasons. Downer can additionally explain what role it played in his later decision to take a job with Woodside, the chief beneficiary of the bugging.

Their advisers, too — Josh Frydenberg, adviser to both Downer and Howard at the time. Former MP Dave Sharma, Downer's legal adviser. Charles Goode and Don Voelte, then at Woodside. Margaret Twomey, then ambassador to Dili.

And the perpetrators of the cover-up, too. Julia Gillard and Bob Carr, who received East Timorese politician Xanana Gusmão's confidential letter advising of the issue in 2012, and who responded aggressively — including by publicly [revealing the bugging allegations](#), even dismissing them as “not new” (thus rendering the whole prosecution ludicrous).

George Brandis, who authorised the raids on K and Collaery (though, to his credit, seems to have declined to authorise the prosecution of them). Former intelligence head Nick Warner, who as head of ASIS blocked the return of K's passport, also needs to be held to account.

And most of all, Christian Porter, his then secretary Chris Moraitis, Michaelia Cash, and their advisers — all need to explain why the conduct of the Commonwealth during the prosecution (as separate from the Director of Public Prosecutions' lawyers, who were always professional) was so shabby and vexatious — and what changed that Porter approved the prosecution.

There are other parties whose conduct over the past four years was less than becoming. Few federal MPs spoke out about the egregious nature of the prosecution. Labor's Graham Perrett had the courage [to speak out in 2019](#). NSW Labor MP Paul Lynch did so in 2018. Others, in time, followed, usually reflecting on aspects of the prosecution rather than the prosecution itself — Canberra Labor MPs Katy Gallagher, Andrew Leigh, Alicia Payne and David Smith; veteran Luke Gosling. Mark Dreyfus, who has his own role in the saga back in 2013, became a fierce critic of the conduct of the prosecution.

But Collaery's political support came almost entirely from the crossbench: Andrew Wilkie, Nick Xenophon, Rex Patrick (later), and the Greens' Nick McKim spoke out right from the outset for Collaery and against the injustice being done to him.

As for the media, its performance was woeful. The ABC's Elizabeth Byrne skilfully covered the trial in Canberra. Guardian Australia's Christopher Knaus provided detailed coverage and expertly pointed out the absurdities of the case. But few other journalists showed significant interest. The press gallery, in particular, virtually ignored it.

This was Australia's Watergate — a moment of egregious misconduct and cover-up that revealed profound corruption at the highest levels of politics and the bureaucracy, a scandal playing out right before their eyes. And most of them closed those eyes to it, either intimidated by the constant lies about national security from the government or, worse, deeming the matter unimportant.

Many of them are now welcoming Dreyfus' decision. Where were you when it counted?