

Collaery trial: process is not just or fair

Press Release from the Australian Lawyers Alliance

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The legal processes being employed to prosecute lawyer Bernard Collaery are not fair or just, says the Australian Lawyers Alliance (ALA).

“We are very concerned to see Mr Collaery back in court today facing charges that have still not been fully disclosed to him and being prevented from discussing the evidence with his own lawyers,” said Greg Barns, criminal justice spokesperson, ALA.

“A key element of a fair trial is the ability to have disclosure of the prosecution case so that defendants can respond to allegations against them and instruct their legal representatives appropriately.

“It would appear that national security laws are being used in this case to prevent Mr Collaery being able to fairly defend himself against the charges. This shroud of secrecy means there is no accountability.”

The ALA believes that the charges against Mr Collaery are an attack on the legal profession and on Mr Collaery for acting as a lawyer within his professional rules.

“Lawyers must be able to defend their clients in accordance with their professional standards without fear of state prosecution,” said Mr Barns.

The prosecution is a breach of the UN Basic Principles on the Role of Lawyers, adopted by the General Assembly in 1990. The Principles state that lawyers have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights without suffering professional restrictions by reason of their lawful action.

“Many lawyers around Australia, acting in the best interests of their clients and justice, make available materials that may embarrass governments or expose wrongdoing. It is right and proper that they continue to do so when circumstances require,” said Mr Barns.

“Lawyers play a vital role in ensuring that the right to freedom of speech is protected in our democracy. We give voice to the truth when it is inconvenient and that must continue to be our role.”