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Crossbench senator pushes to fix 'shameful' historic wrong against Timor-Leste

Centre Alliance's Rex Patrick wants to overturn the decisions that limit Australia's exposure to international courts



The Howard government limited Australia's exposure to international courts in 2002 during oil and gas negotiations with Timor-Leste. Photograph: Mick Tsikas/AAP

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The crossbench senator Rex Patrick will push to fix a historic wrong stemming from the “shameful” treatment of Timor-Leste during oil and gas negotiations by overturning decisions that limit Australia’s exposure to international courts.

In 2002, the then Howard government decided to limit Australia’s acceptance of the compulsory jurisdiction of the international court of justice and international tribunal for the law of the sea.

The government was at the time involved in sensitive maritime boundary negotiations with Timor-Leste that would split the lucrative oil and gas reserves in the Timor Sea.

The move effectively shielded Australia from cases lodged in the international courts about maritime boundary disputes, denying Timor-Leste an avenue of recourse it enjoyed under international law.

Two years later, Australia sent spies to bug the offices of Timor-Leste's government to gain an upper hand in the same negotiations, a mission that would have remained secret without the actions of Witness K, an Australian intelligence officer, and the lawyer Bernard Collaery.

Their actions led to the renegotiation of the maritime boundary, and the signing of a second treaty last year, which gave Timor-Leste a far better deal.

Patrick now wants the Australian government to revoke the 2002 declarations limiting its acceptance of the jurisdiction of the courts.

"Australia's commitment to international law was pushed aside in a shameless effort to grab as much as possible of the oil and gas resources of the Timor Sea," Patrick said. "This was a historic wrong that needs to be fixed."

The Centre Alliance senator plans this week to move a motion calling on the foreign minister to report to the Senate on the government's view on revoking the 2002 declarations.

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Patrick will also refer the matter to parliament's joint standing committee on treaties for consideration. That committee previously considered the matter in 2002, and dissenting members warned the decisions risked undermining Australia's international reputation.

"Specifically these members believe that the ICJ declaration made by the Minister for Foreign Affairs damages Australia's international reputation and may not be in Australia's long-term national interests," the committee said in 2002. "The declaration may be interpreted as an effort to intimidate and limit the options of neighbouring countries in relation to any future maritime border disputes."

Patrick is hopeful of Labor's support this week. In 2002, the Labor opposition expressed serious concern at the Howard government's move.

Then shadow foreign minister Kevin Rudd and shadow attorney general Robert McClelland said it marked a "historic departure from Australia's proud record" of accepting the compulsory jurisdiction of the international courts.

"That position has enjoyed bipartisan support since 1975," Rudd and McClelland said. "It said to the world that Australia honours its international obligations and has nothing to hide."

Patrick said the issue must be rectified as a matter of urgency. "This has been a long-standing international embarrassment for Australia that should be brought to an end without further delay," he said.