

I spy something beginning with K: Josephite nun says Witness K and Bernard Collaery are scapegoats

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Josephite Sister Susan Connelly: “The group wants to rid itself of the mayhem, strife, and insists that something must have happened to cause this crisis.” Photo: Joe Higgins

AUSTRALIAN government officials have turned Witness K and his or her lawyer Bernard Collaery into scapegoats, Josephite Sister Susan Connelly said at a public forum about the espionage case at Brisbane City Hall on October 29.

Senior Counsel Bret Walker, who at one stage represented Witness K, and Professor Clinton Fernandes, who had appeared on ABC television as a case expert, joined Sr Connelly on the panel discussion.

“Like I suspect all of us here tonight, the misgivings I feel about aspects of the two prosecutions in question are an offshoot, and rather pale in significance compared with the shame I feel about our national contribution to the modern history of East Timor,” Mr Walker said.

He said reminiscing about “old photographs” from the Second World War or the joint efforts of INTERFET during the East Timor independence move of 1999 simply would not do.

Mr Walker said intelligence organisations were not effective unless they were law-abiding because they operated in the name and interests of the sovereign Australian people.

“And we are nothing if not a law-abiding people,” he said.

“Our self image of happy-go-lucky larrikins is just so much nonsense. We are the meekest, most law-abiding, personable and civil people ...

“We’ve had our moments, shameful in themselves, but nothing like other countries on earth.

“And for that kind of people, an effective secret intelligence organisation must be a law-abiding one.”

Secrecy had its place in public services when it served the “national interest” in sensitive or dangerous situations, the panellists agreed.

Police tactics used to bring down narcotic networks, the identities of informants in terrorist cells and the hardware of signals intelligence were examples where Australians wanted secrecy.

But this was when it served the “national interest”.

Duping a poor nation in treaty negotiations for corporate profit, as alleged by Witness K, was unlikely to pass the pub test about “in the national interest”.

Prof Fernandes, who played devil’s advocate, said Australia’s current laws meant the Australian Secret Intelligence Service could conduct operations for the sake of Australia’s economic wellbeing.

Legality and morality were not coterminous.

The panellists agreed Australia’s initial covert operation, the ongoing secrecy and the criminalisation of the witness and their lawyer was immoral.

Sr Connelly used French philosopher Rene Girard’s scapegoat theory to explain why Australia was in the situation it was.

She said crisis in the social group was the first step of scapegoating.

For this scandal, the crisis was the discovery and lambasting of Australia’s alleged covert tactics to cheat the negotiation process.

The second step was a crime.

“The group wants to rid itself of the mayhem, strife, and insists that something must have happened to cause this crisis,” Sr Connelly said. “Someone is responsible for this crime.”

No blame was put on the covert ASIS operation or the corporate greed that motivated it, she said.

Instead the Australian Government blamed the whistleblowing.

The third step was the criteria for the scapegoat – someone “weak, different, foreign, friendless”.

“A true scapegoat cannot be responsible for the social collapse of which it is accused,” Sr Connelly said.

The last step was violence.

“The dominant group works together to sideline, expel or kill the scapegoat,” she said.

Sr Connelly’s sobering analysis brought the auditorium of lawyers and clerks to a pensive quiet.

Prof Fernandes, in his talk, said there were “matters of physics” to take into account.

He said recording devices only had a set battery life.

This meant a reconnaissance team was needed to work out logistics like when the crucial talks would take place and where was optimal to plant covert listening devices, he said.

It was not a small operation was his point.

During this period, the Australian Embassy in Jakarta was bombed, killing nine people and wounding more than 150 others.

Islamic terrorist group Jemaah Islamiyah, alleged to have links to al-Qaeda, claimed responsibility for the attack.

Suicide bombers were killing people but Australia had focused resources on securing land for energy profits.

ASIS operatives would have misgivings about that, Prof Fernandes said.

The moral imperative for the whistleblower was clear.

The discussions shifted towards the alleged cover-up and trials of Witness K and Mr Collaery, which had secret evidence.

Australia's pursuit of the two was likely either for two reasons, the panel said.

Either, it was revenge for embarrassing powerful interests or it was a threat to other potential whistleblowers about other abuses of intelligence services for commercial reasons.

The best way to help both Witness K and Mr Collaery was to talk to your local member about them and share concern for the abuse of secrecy, Sr Connelly said.

Earlier this year, Witness K pleaded guilty in the ACT Magistrates Court to one charge of communicating secret information.

It is expected Mr Collaery will fight his charges.

Order of events in the Witness K case

Witness K: "A true scapegoat cannot be responsible for the social collapse of which it is accused."

IN 2004, Australian Secret Intelligence Service officers allegedly infiltrated East Timor's cabinet room, planted covert recording devices, and extracted privileged conversations from the East Timor delegation about ongoing Timor Sea treaty negotiations with Australia.

The Australian delegation allegedly used this information to its advantage in the negotiations, securing a great deal for Australia, which ensured plenty of resources for Australian energy corporations to profit off.

The one who alleged this was Witness K.

Witness K's lawyer was Bernard Collaery.

In 2012, East Timor Prime Minister Xanana Gusmao learned about the alleged operation and sent a letter to Prime Minister Julia Gillard saying the treaty was struck in bad faith and should be renegotiated.

Ms Gillard said no.

East Timor took Australia to the international courts.

In 2013, Mr Collaery left Australia for The Hague to represent East Timor.

Witness K was preparing to leave to testify.

Australian Federal Police officers and Australian Security Intelligence Organisation officers raided Mr Collaery and Witness K's homes and offices, took case documents and seized Witness K's passport.

The international courts told Australia to stop spying on East Timor and to give back the documents they had seized.

East Timor dropped the case in 2014 when Australia agreed to renegotiate the treaty.

In 2018, months after a new treaty was signed in much more favourable to East Timor in both Witness K and Mr Collaery were charged with crimes.

They face trials with partially secret evidence.