

# An appeal to the Australian legal fraternity – Lawyers4Collaery

By *Geoff Etches* in Pearls and Irritations, 7 September 2020

*International lawyers have banded together to support Julian Assange with an open letter to the British PM. Why haven't Australian lawyers supported Bernard Collaery and Witness K with an open letter to our PM and Attorney-General?*

On 22 February 2020, an [open letter](#) from International Jurists in support of Julian Assange was sent to UK Prime Minister Boris Johnson. There were 160 signatories to the open letter, including Greg Barns SC, Barrister and former National President of the Australian Lawyers Alliance, and Julian Burnside AO, QC (President of Liberty Victoria), as well as six other Australian lawyers.

The International Jurists' open letter begins:

*Dear Mr Johnson,*

*As international jurists, with an acute awareness of the responsibilities that our profession demands of us, we call on the British authorities to refuse the request for the extradition of Mr. Julian Assange to the United States. We also call for his immediate release.*

The document (that runs to 2,381 words) then provides considerable detail about the Jurists' objections regarding how the government has dealt with the Assange case, including references to the relevant Articles of the European Convention on Human Rights that have been contravened. That is, the Jurists cited details that have been well-known for many years in support of their demands.

In conclusion, the International Jurists state (in part):

*As Lord Bingham eloquently reminds jurists in his eponymous 2006 lecture on the subject, the constitutional principle of the 'Rule of Law' is statutory and paramount. Yet time and time again in Mr. Assange's case, we have seen the law ignored, manipulated or summarily rejected.*

*We call on the British legal community to reclaim professional standards, to condemn the torture of Mr. Assange and to engage in urgent actions to secure his immediate and safe release.*

The simple point that I want to make is this:

If 160 International Jurists can make this sort of public demand, directly to the UK Prime Minister, I'm wondering if it might not be possible for the Australian legal fraternity to make a similar demand of Australia's Attorney-General Christian Porter, in relation to the prosecution and persecution of Bernard Collaery and Witness K.

The International Jurists' open letter could be used as a model for Australian lawyers, ideally led by one or other leading Australian law body or eminent individuals. The structure of the open letter is simple:

1. make the demand in plain language (that the prosecution of Bernard Collaery and Witness be dropped);
2. provide the most powerful arguments in support of that demand (drawing, perhaps, from the sorts of arguments that have already been publicly stated by Australian lawyers, including:

- Geoffrey Robertson QC (human rights barrister, academic, author, and broadcaster);
- Greg Barns SC (Australian Lawyers Alliance);
- Ian Cunliffe (lawyer, former senior federal public servant);
- Julian Burnside AO, QC (lawyer, and President of Liberty Victoria);
- Justice Anthony Whealy QC (former NSW Court of Appeal judge and ICAC Commissioner);
- Nick Cowdery QC (former NSW Director of Public Prosecutions);
- Nick Xenophon (of Xenophon Davis);
- Pauline Wright (President of the Law Council of Australia);
- Professor Spencer Zifcak (Professor of Law at Australian Catholic University);
- Richard Ackland AM (Lawyer, publisher, journalist);
- Stephen Charles QC (former Victorian Court of Appeal judge).

### 3. Conclusion

In their Conclusion, the International Jurists cite Lord Bingham with obvious respect, but an Australian open letter could, at this point, include references to our own eminent Justices, including, perhaps, former Chief Justice of Australia, Robert French AC (as, for example, in the following quotation in Ian Cunliffe's article '[Bernard Collaery Trial is a Highly Unusual Criminal Prosecution](#)', *Australian Financial Review*, 14 August 2020:

*An essential characteristic of courts is that they sit in public. That principle is a means to an end, and not an end in itself. Its rationale is the benefit that flows from subjecting court proceedings to public and professional scrutiny. It is also critical to the maintenance of public confidence in the courts. Under the Constitution courts capable of exercising the judicial power of the Commonwealth must at all times be and appear to be independent and impartial tribunals. The open-court principle serves to maintain that standard.*

(Though of interest in the context of the Collaery/Witness K prosecutions, Justice French adds, ominously, "However, it is not absolute." More's the pity some would say.)

Given that eminent Australian lawyers Greg Barns and Julian Burnside have already made public statements in support of Bernard Collaery and Witness K, including calls for the prosecutions to be dropped, and that they are both signatories to the open letter to the UK Prime Minister on behalf of Julian Assange, I contend that it is entirely appropriate that there is a concerted effort to publicly support Bernard Collaery and Witness K to the same extent.

I contend that until Australian lawyers, led by their most influential members, take the same sort of action that their counterparts in the UK have already taken in relation to Julian Assange, those lawyers and their organisations cannot claim to be doing all they can do for Bernard Collaery and Witness K. And we are running out of time. Please act now.

Geoff Etches met the 400 East Timorese who were evacuated from the UN compound in Dili (September 1999) to the Fremantle safe haven. Geoff went to East Timor, and subsequently conducted the United States-East Timor Scholarship Program on behalf of the University of Hawaii, from 2001 to 2005.