

Radio 3CR 28 March 2020

Annie McLoughlin interviewing Bernard Collaery

<https://www.3cr.org.au/solidaritybreakfast/episode-202003280730/centrelink-chaos-ii-timor-sea-scandal-ii-week-was-ii-left>

36:47 – 53:49

Annie McLoughlin: This is Annie on our first remotely tailored solidarity breakfast on 3CR. What I was going to do over the last week was go to the book launch of Bernard Collaery's book *Oil Under Troubled Water*. It was going to be at the Nova Cinema and launched by former Victorian Premier Steve Bracks. It is all about the resources being taken from the Timor Sea and the skulduggery involved in cheating the East Timorese and ultimately the Australian people. In lieu of the book launch I was able to have a chat with Bernard Collaery, which I will play to you in a minute. But first I need to give you some background.

Bernard Collaery is in fact facing prosecution with a possible jail term of 10 years under the post 9/11 intelligence laws. He was charged with communicating secret intelligence information to the government of Timor-Leste between May 2008 to May 2013, and to ABC journalists.

Now, Bernard Collaery is a Canberra lawyer who in a past life was the deputy chief minister and Attorney-General for the ACT. He has also been the first Secretary of the Australian Embassy in Paris. These are pretty illustrious credentials and ones which are probably the reason he was the lawyer assigned to the case of the former Australian Secret Intelligence Service operative who was involved in bugging the East Timorese government building during Australia's negotiations over petroleum resources in the Timor Sea. This person is called "Witness K" and he's facing his own charges for divulging secret information that's supposed to be of national significance. And while the Timor-Leste government took the case of unfair dealing over the revealing of the bugging to the international Court in The Hague, the charges of divulging secrets against the national interest were not pursued. It is only now that Christian Porter, the Attorney-General, after that case was settled out of court in effect, has started pursuing the case against Bernard Collaery. This new book *Oil Under Troubled Water* published by [Melbourne University Press](#) is particularly explosive with new allegations that start with helium, but I'll let Bernard tell the story....

Bernard Collaery: Annie, it's a long corporate story. And really the discovery is a very sinister one at the end of a long story of government very closely working with International corporate entities.

We go back to 1972 OPEC petroleum crisis, when access to Middle Eastern petroleum products was temporarily halted during the Israeli Middle East conflict and Australia became very nervous about our total dependence on overseas supplies of petroleum products, and we commenced a massive search for petrol and oil within Australia's territorial boundaries

In that search we went across the right boundaries and we went into waters that belonged at that time to Portugal and Indonesia. The Indonesian issue was settled at about the same time on a proper boundary – a median boundary line, but no boundary was settled with

Portugal over the then Portuguese Timor. Australia continued to encroach on Portuguese territorial waters.

Portugal started to protest and then Australia joined with Indonesia and taking occupation by proxy - Australia by proxy of East Timor. At the same time as Indonesia became an occupier of East Timor — an unlawful occupier, in breach of the United Nations Charter, particularly Article 2: unprovoked aggression. Australia became an occupier. Not many Australians realise this. Australia became an occupier of the seabed resources of East Timor with Indonesia. It made an unlawful treaty in 1989 with Indonesia and in working that Treaty Australia worked very closely with International corporate entities.

All through those 20-odd years of exploration activity Australia funded, resourced and gave away for nothing—effectively nothing (except for some licence exploration fees), the value and intellectual property of the Australian paid exploration on the continental shelf that goes almost all the way to the Timorese coast.

Timor is an island uplifted on the Australian continental shelf where the Australian shelf goes beneath the Asian plate. It's a tectonic zone north of Timor but always, it was fairly clear and recorded in Australia's own geological archives — which are immense and world-leading— was always recorded there were not two shelves, there was just one shelf that Timor was riding on, and by international law Australia — and by whole variety of other case studies in the international Court— Australia had no right to go past a midline on that shelf to East Timor.

Annie McL: What you're saying is that the Australian government and Australian interests were quite clear in what they were doing.

Bernard Collaery: Oh, indeed. Australia worked with Woodside Petroleum and Conoco-Phillips as if those two entities were part of the Australian government. It's extraordinary that and were revealed recently under parliamentary privilege by one of the Australian legal advisers, Professor Andrew Serdy, that Australia made available drafts of these treaty documents to Woodside Petroleum's lawyers and executives to peruse and agree and assist. And they were working hand in glove in this unlawful enterprise with corporate entities. Unlawful because it offended international law. But the unlawfulness became worse after independent East Timor agreed to form a Joint Petroleum Development Authority with Australia. So an agency—that Australian authorities established by Parliament called the Joint Petroleum Development Authority— was established. That Authority was the legal basis for a joint venture between the newly independent East Timor and Australia.

Annie McL: In those agreements, in your book you actually talk about the aggression and misrepresentation of the Australian lawyers in the Treaty of process where they misrepresent what was actually available.

Bernard C: Yes. It was a joint petroleum development venture, and the definition of petroleum in the document signed by the Timorese was changed from any other definition of petroleum around the world. The words "and inert" were taken out of the definition of petroleum. But the liquid natural gas contains not just hydrocarbons, but also contains a

very, very valuable gas called helium. It doesn't always contain that gas but the geo-local nature of the Timor shelf, as we'll call it, meant there was a massive quantity of helium under that shelf, under that granite, that vast Granite Dome. And Australia deceived Timor by not revealing in the joint venture (lawyers will understand what I mean by fiduciary breach) that helium was equally valuable to gas, and to buyer, and Australia gave that prize in circumstances that require investigation by the Australian National Audit Office and the Australian Federal Police. Australia gave that prize helium away entirely to the operator - contractor Conoco-Phillips and the other contractor parties. The vast value of that helium, which almost equals all of the gas being taken from the resources of the Bayu-Udan resource, has been given away.

Now just think of what hospital beds, think of what free preschool education and childcare Australia could have had from between twelve and twenty-two billion dollars' worth of helium gas given away by the Howard/Downer government to foreign enterprise. That's the real scandal. That's the culmination of the scandal that's been going on for 30-40 years in the Timor Sea.

Annie McL: This doesn't just affect East Timor, this affects Australia, Australians.

Bernard C: Well, every Australian lost that revenue. Every Australian, and nowhere in the Parliamentary statements by Foreign Minister Downer and the comments made by our Prime Minister of the day, John Howard, is there any mention of helium recovery and the giving away of that resource.

Mind you most of it was being taken unlawfully because the shares were unequal and tainted. So this is a massive fraud on the Australian and Timorese people, and who is going to answer for it? Who is going to answer for billions upon billions of dollars given away without the approval of parliament?

Annie McL: What role did Alexander Downer play in all this because he was there...

Bernard C: Well, Alexander Downer was the foreign minister the day and that that's a matter for inquiry and investigation.

Annie MCL: I mean, I know that you can't speak to the upcoming trial that's coming up in April. Do you think that it will be in public court? Because part of the things that you're talking about in your book are actually about the confusion between national interest and the commercial interests of major international corporations, which seem to be... those two things seem to have become blurred.

Bernard C: Australia's put a cloak over this story by using the terrorist laws we passed after 9/11 in the name of combating terrorism. They've used those laws against myself and "Witness K" to put a cloak of secrecy over this scandal – as some commentators have said– Australia's greatest political scandal. Now, with the Coronavirus issue at the moment I accept that Australians have got their ears tuned otherwise. But no amount of cloaking will stop the trial of myself becoming really.... the real trial is the trial of the issues that I'm speaking of. And it's for the courts and the Australian people to decide whether we will

allow a cloak to be put over this scandal in the name of so-called National Security.

If there's any national security issue involved it was that the helium was a critical commodity. We didn't have helium in Australia, and it's required for health — for MRI Imaging, it's required for nuclear reactors, it's required in a number of areas. And if there's any national interest, it was that we should have reported in the Parliament that helium had been found, was accessible, and it was a joint venture underway with East Timor to recover the helium. Instead we've given it away, in circumstances that have to be explained. And I expect that my trial will involve a trial of that issue. It must involve a trial of the scandal regarding the giving away of the helium. I'm unable to address and tell the Australian people the connection between my trial and the helium scandal. I'm forbidden by that anti-terrorist law.

Annie MCL: Tell me, because of the virus your tour to launch a book has been stymied. What are you doing? What's your next move?

Bernard C: Well, I'm taking care of my family and myself, my grandchildren. We are under threat; the general public health is under threat. The series of book launches were an opportunity for Australians to know that our democracy as well was under threat and the timing was good straight after the "Sports Rorts"— blatant sports rorting prior to an election. If the Russians had done the sports rorting we would be up in arms, but it wasn't the Russians, it was our own government. Now the book launches were going to reveal something far, far, far more sinister that had been worked on the Australian people and that story is yet to feature in Australian minds.

But as we run out of Hospital beds, perhaps and as we realize that money could have provided, I'm told by an economist friend, free preschool education in this country for years upon years. We could have been a developed Western democracy like the Scandinavian countries and provided and assisted young couples with preschool and childcare. We gave all that money away to enormously wealthy foreign corporations. We also gave the gas away at up to one-third the price we're domestically paying for gas. The whole management of the Timor Sea gas, petroleum and helium issue is a vast, scandalous exercise in poor governance, poor economic planning by the Howard/Downer government.

Annie McL: How can people get a copy of your book?

Bernard C: It's published by [Melbourne University Press](#) and as far as I know it's available on Amazon and other outlets, and local book servers have it. I think it's sold out in some places which speaks volumes for the community interest, despite the Coronavirus, in the non-working of our Australian democracy at the moment. But there's a Day of Reckoning coming and the closer I am brought to my trial the closer the Day of Reckoning in open court for the Howard /Downer government.

Final transcription - Susan Connelly