



Australian  
Bar Association

*The ABA acknowledges the relationship between the land on which it and its members work and the First Nations' peoples of Australia.*

## Media release

### **The Australian Bar Association calls on the Commonwealth to reconsider the prosecution of Bernard Collaery**

28 July 2021

The Australian Bar Association shares the concerns of the ACT Bar Association in relation to the prosecution of barrister and former Deputy Chief Minister of the ACT and ACT Attorney-General, Bernard Collaery.

Mr Collaery advised the East Timor Resistance movement and represented Witness K in a legal case brought by the Timor-Leste Government against the Australian Government.

The prosecution relates to events which occurred in 2004. The prosecution was commenced at the end of May 2018 with the consent of the (former) Attorney-General, a consent which his predecessor had not granted.

The prosecution has largely taken place in secret, with much of the evidence suppressed. The basis upon which evidence needs to be suppressed is, itself, the subject of suppression. This impedes the ability of the legal profession and the public to scrutinise the administration of justice in this important case.

Further background can be found in the ACT Bar Association's media release [here](#).

The Council of the Australian Bar Association this week unanimously passed the following resolution:

*The ABA expresses its concerns about the delays in the prosecution of Mr Collaery and the secret nature of the proceedings and suppression of much of the evidence as raising rule of law concerns going to the open and fair administration of justice.*

President of the ABA, Matthew Howard SC, said, "This matter raises two, fundamental rule of law questions as to the fair and open administration of justice – the length of time it has taken to prosecute the matter, and the suppression of evidence. For the public to have confidence in the administration of justice, it is vital that prosecutions proceed in a timely manner, and that the workings of the courts be open to public scrutiny to the maximum extent possible. The public will rightly be concerned, in relation to Mr Collaery, that little is or can be known about the prosecution, and that it is continuing some 17 years after the events in question.

“The ABA urges the federal Attorney-General to reconsider the prosecution in light of these significant rule of law issues.”

[ends]

#### **About the ABA**

The Australian Bar Association is the peak body representing nearly 6,000 barristers throughout Australia. Established in 1963, the ABA is committed to serving, promoting and representing its members, as well as advocating for fair and equal justice for all.

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