

John Howard likely to give evidence at Bernard Collaery trial, Rex Patrick tells parliament

Under parliamentary privilege, independent senator says Australia's 2004 Timor-Leste spy mission was 'neither legal nor initiated properly'

Christopher Knause – *The Guardian* - 11 August 2021

<https://www.theguardian.com/australia-news/2021/aug/11/john-howard-likely-to-give-evidence-at-bernard-collaery-trial-rex-patrick-tells-parliament>

Australia's 2004 spy mission targeting [Timor-Leste](#) during oil and gas negotiations was “neither legal nor initiated properly” and former prime minister John Howard is likely to be called to give evidence at the trial of Bernard Collaery, the independent senator Rex Patrick has told parliament.

Late on Tuesday, Patrick [used parliamentary privilege](#) to give “some hints” about what was happening in the criminal case against Collaery, saying Australians have a right to know.

Collaery, a lawyer and former ACT attorney general, is facing potential jail time over his role in revealing the existence of an Australian bugging operation against Timor-Leste during negotiations to carve up resources in the Timor Sea.

But [key parts of the trial](#) are likely to be shrouded in secrecy, and the government is still refusing to confirm or deny whether the mission, which Patrick describes as “scandalous and un-Australian”, took place.

Collaery, he said, will argue the mission was not lawfully initiated.

“They will, I understand, contest whether the operation was lawful and whether the operation was lawfully initiated,” Patrick told parliament.

“These are two different questions, but they go to our national interest and indeed our moral constitution. I have no doubt that it was neither legal nor initiated properly.”

He said one way in which such spy operations were initiated was for the executive government to make a collective decision to issue a government requirement to a spy agency. The requirement must be in line with Australia's foreign relations, national security or economic interests.

An individual minister, after consulting with other ministers, can also make a decision to issue a written directive to an intelligence agency. Patrick said he understood that no such written directive existed.

He said he expects that Howard and his former ministers Alexander Downer, Philip Ruddock, Robert Hill, and possibly Nick Minchin would be “on the subpoena list to give evidence”.

“We have specific controls placed on the intelligence services by this parliament, and my view is that they haven't been followed,” Patrick said. “My view is that this operation was instituted by Mr Downer, not properly authorised and done for the benefit of Woodside.”

The case against Collaery is still before the ACT courts. He has [appealed a decision to hold key parts of his trial](#) in closed court. A decision on that appeal is still to be made in the ACT court of appeal.