

Dreyfus attacks Collaery prosecution: ‘an affront to the rule of law’

Mark Dreyfus, who will become attorney-general if Labor wins the election, has savaged the conduct of the trial of Bernard Collaery, and questioned the public interest in its continuation.

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Bernard Keane – *Crikey* – 02.05.22

Shadow attorney-general Mark Dreyfus has stepped up his criticism of the Morrison government’s persecution of Bernard Collaery as demonstrating “a stark double standard that is inimical to the rule of law”.

Dreyfus was speaking on Saturday at the Australian Bar Association Conference, attended by many of the country’s top lawyers including judges from the High Court, Federal Court and state supreme courts. Attorney-General Michaelia Cash refused to attend on the basis she was [too busy attacking eastern-state independents](#), preferring instead to send a recorded message spruiking the government’s achievements — Dreyfus took aim at the government’s trashing of the rule of law over nine years and three attorneys-general.

His comments about the government’s continued prosecution and harassment of Collaery were particularly scathing, with Dreyfus singling out the conduct of the Commonwealth’s representatives in the trial, which has been marked by delays, vexatious disputation, attempts to thwart Collaery’s efforts to secure legal representation, and a rejection of the requirement that the Commonwealth be a model litigant — so much so that three judges have separately criticised the legal representatives of Christian Porter and Michaelia Cash. As Dreyfus remarked:

While I will not comment on the substance of the charges, the very manner in which the government has sought to conduct the prosecution appears to me to be an affront to the rule of law. There have been some 50 preliminary hearings to date, with well over \$4 million spent by the Commonwealth alone, and still there is no trial date for Mr Collaery. The Morrison government has also sought to have the trial conducted in secrecy but was rebuffed last year by the ACT Court of Appeal, which held that the trial should be held predominantly in open court to avoid damaging public confidence in the administration of justice. The Commonwealth has now appealed that decision to the High Court.

In the event Labor wins the election and he becomes attorney-general, Dreyfus will have to decide whether the prosecution continues or if he withdraws the approval provided by Porter in 2018. While not tipping his hand, he flagged his thinking in the following terms:

Despite repeated questions in multiple hearings of Senate estimates, I have yet to hear a cogent explanation of how the public interest is served by the ongoing attempts to prosecute Mr Collaery, a former attorney-general of the ACT who is now well over 70, in relation to an allegation of disclosure of events alleged to have occurred almost 20 years ago.

Collaery was in court again last week fighting attempts by the government to prevent his legal team from subpoenaing evidence about the process by which the Howard government approved its bugging of the Timor-Leste cabinet, with Michaelia Cash's representatives continuing to attempt to block Collaery's efforts to secure a fair trial, in which lawyers from the Commonwealth Director of Public Prosecutions — notionally conducting the prosecution — played only a limited role.

Apart from Dreyfus's remarks, Collaery's monstrous treatment has received little coverage, especially from the press gallery.

For once, Dreyfus — never the most rapier-like of political communicators — summed up the profound hypocrisy of the Morrison government.

The contrast between the energy and resources the Morrison government has been willing to spend on pursuing Mr Collaery, as opposed to its ignoring of the multiple scandals that have unfolded in the government itself over recent years, demonstrates a stark double standard that is inimical to the rule of law.