

Australia: Whistleblower trials proceed despite outcry

By Mike Head
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Australia's government is pushing ahead with two major trials of military and intelligence whistleblowers. It also intends to hold hearings behind closed doors, further defying widespread public opposition. Canberra's authorities are determined to persecute and jail anyone who exposes the criminal activities of the country's US-linked spy agencies and armed forces.

One case involves "Witness K," an ex-intelligence officer who cannot even be named, and his former lawyer, Bernard Collaery. Together, they exposed the Howard Liberal-National government's illegal bugging of the cabinet offices of the tiny state of East Timor during oil and gas treaty negotiations in 2004.

The other prosecution is of former military lawyer David McBride, who leaked documents showing the ongoing official cover-up by successive Liberal-National and Labor governments of war crimes and abuses committed by the Special Forces as part of the US-led invasion and occupation of Afghanistan.

Both cases are proceeding despite protests outside the court hearings, condemnation on social media, anxious mainstream media commentary and a march last week through the streets of Timor's capital, Dili, demanding the dropping of the charges against Witness K and Collaery.

Last Friday, during a brief visit to Dili, Prime Minister Scott Morrison dismissed calls by Timorese protesters and politicians to end the Witness K-Collaery prosecutions. "That's a domestic matter for Australia. It's currently before the courts. It's not a matter I want to comment on," Morrison said in response to questions at a media conference.

Morrison was in East Timor to celebrate the finalisation of a border treaty and revenue-sharing deal for the Greater Sunrise oil and gas fields that lie beneath the Timor Sea. He also rejected demands for

Australia to pay \$5 billion to compensate the impoverished statelet for the estimated revenue it has lost as a result of the previous agreements imposed on East Timor with the help of the information gleaned from the bugging.

Much is at stake in these trials. The Timor operation was carried out by the Australian Secret Intelligence Service (ASIS), which is part of the US-dominated global "Five Eyes" electronic surveillance network. Any revelations about its activities would cut across Australia's integration into the escalating US drive to reassert its post-World War II economic and military hegemony over all its capitalist rivals, China in particular. Already, the huge caches of material leaked by former US National Security Agency analyst Edward Snowden have shown that the Five Eyes network spies on millions of people around the world, as well as targeted government leaders.

Likewise, any exposure of the assassinations, civilian killings, torture and other atrocities committed by Australia's Special Forces could damage the capacity of the commando units to keep providing the frontline troops for US-led neo-colonial military interventions, such as those in Afghanistan and Iraq. In addition, the Special Forces have been tasked with suppressing domestic unrest, using the expanded military call-out laws that the government and the Labor Party pushed through parliament last year. How far the authorities are going in their vendetta against Witness K and Collaery was demonstrated last month. After six years of harassment, interrogation and mounting financial and personal pressure, Witness K reportedly agreed to plead guilty to certain charges relating to the leaking of classified material.

At a Canberra court hearing on August 22, Witness K's counsel, Haydn Carmichael, told the judge his

client had applied for legal aid more than a year ago but still lacked sufficient funding for his plea and sentencing hearing. This would include “significant disbursements” to bring witnesses from overseas and medical evidence.

Witness K’s case is scheduled to return for a mention on September 13 to see if the facts of the case are agreed with the prosecution, before a formal plea and sentencing at a later date. Even if a plea bargain is struck, Witness K could be jailed for up to two years.

Witness K’s former lawyer, Collaery, will plead not guilty and stand trial in the Australian Capital Territory (ACT) Supreme Court next year. However, the government has issued a certificate to conduct hearings in a closed court, supposedly to protect “national security information.” Collaery will face a three-day hearing starting on December 11 that will determine what, if any, evidence can be heard in open court.

Such secrecy is an attack on the fundamental democratic right to a public trial, an essential principle fought for centuries ago against arbitrary punishments by absolute monarchies. This is on top of Collaery’s prosecution violating another crucial protection—lawyer-client confidentiality.

In the Special Forces war crimes case, McBride returned to the ACT Supreme Court on the same day as Collaery, for another preliminary hearing. The court registrar mapped out two pre-trial application dates for October 25 and December 9, and a 10-day trial next March or April.

McBride has been committed to stand trial charged with theft of Commonwealth property, three counts of breaching the Defence Act and unauthorised disclosure of information. He said outside court it was his duty to the people of Australia to leak the documents. He hoped his trial would be open to the media, despite the government applying for a closed-door proceeding.

McBride’s leaked documents were partly reported by the Australian Broadcasting Corporation (ABC) in 2017. At the government’s behest, the federal police raided the ABC’s headquarters in June, seeking to prosecute its journalists as well.

That raid came just a day after the police ransacked the home of a News Corp journalist, Annika Smethurst, who had disclosed secret government plans to legalise domestic surveillance by ASIS.

Acting Australian Federal Police Commissioner Neil

Gaughan revealed at a media conference that the main reason for the police raids was to protect the police and intelligence agencies’ links with the Five Eyes network.

This targeting of journalists came within weeks of the global precedents set by the British police arrest of WikiLeaks founder Julian Assange and the US re-arrest of the whistleblower Chelsea Manning. Through the courageous efforts of Assange and Manning, hundreds of thousands of documents were published exposing the war crimes, diplomatic conspiracies and mass surveillance of the US and its allies.

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