



Quaker Peace & Legislation Committee

ACTION ALERT 21-1: PROSECUTION OF WHISTLEBLOWERS

As Quakers we seek a world without war. We seek a sustainable and just community. We have a vision of an Australia that upholds human rights and builds peace internationally, with particular focus on our region. In our approach to government, we will promote the importance of dialogue, of listening and of seeking that of God in every person. We aim to work for justice and to take away the occasion for war.

April 2021

This Alert draws attention to the urgency of protests to the new Attorney-General to drop the prosecutions of Bernard Collaery (lawyer) and Witness K (former intelligence official) under national security laws, for revealing that the Australian Government bugged government offices in East Timor during negotiations over the natural gas field development in 2004.

Friends are encouraged to contact their MP/Senator seeking a review of the Government's approach to these whistleblowers and a withdrawal of the prosecutions.

For the past three years, the Commonwealth has been prosecuting cases against these two for breaches of the Intelligence Services Act. According to the Attorney-General's Department, in a recent statement to a Senate Estimates Committee, the cost so far has been \$3,478,974 to the taxpayers. Witness K has indicated willingness to plead to a single charge of conspiracy, but there has been no agreed statement of facts in the matter. Bernard Collaery faces four charges of conspiracy, and is challenging the secrecy elements of his trial.

Citizens have formed an [Alliance Against Political Prosecutions](#) and have been protesting outside the ACT Courts each time a hearing is held into these cases. A major concern has been that parts of the trial proceedings are being held in secret, with neither the defence nor the public given access to some evidence. See <https://bernardcollaerysupporters.org/>

A webinar was held on 31 March 2021 by the ANU College of Law to highlight these concerns. Around 350 people participated in the on-line event. Four invited speakers addressed the issues – [Kieran Pender](#) (Human Rights Law Centre), [Nicholas Cowdery](#) (former DPP in NSW), [Rebecca Ananian-Welsh](#) (Queensland University Law School) and [Pauline Wright](#) (immediate past president of the Law Council of Australia).

NATIONAL QUAKER PEACE & LEGISLATION COMMITTEE

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The following points were made:

- Australia's actions against a neighbouring country were against international law.
- Allowing confidentiality and secrecy to mask wrongdoing is against legal traditions and has chilling effect on whistleblowers.
- The wrong parties are being prosecuted, and this undermines the criminal justice system.
- The Attorney-General who initiated the prosecutions (Christian Porter MP) is a member of the party that was in government when the bugging took place, and this compromises the independence of the process.
- Under the range of national security laws now in place, secret trials are becoming "normalised", and national security is being given too high a priority over fairness and openness.
- It is a dangerous precedent that a lawyer who is representing a legitimate client is subject to charges under national security legislation.
- Law reform is needed to ensure that a 'public interest' defence is possible in such cases. Judges are being put under great pressure because of the current national security laws.

Action

It is possible that Michaelia Cash, the new Attorney-General, may review the case and change course, or that the prosecution may decide not to proceed. However, it is important that public concern be made clear to federal politicians of all parties. Friends are encouraged to contact their MP/Senator seeking a review of the Government's approach to these whistleblowers and a withdrawal of the prosecutions.

The members of the Parliamentary Joint Committee on Intelligence and security are listed below:

Chair – Senator James Patterson (Lib)
Dep Chair – Anthony Byrne MP (ALP)
Senator Eric Abetz (Lib)
Dr Anne Aly MP (ALP)
Mark Dreyfus MP (ALP Shadow Attorney-General)
Senator David Fawcett (Lib)
Ms Celia Hammond MP (Lib)
Senator Kristina Keneally (ALP)
Julian Leeser MP (Lib)
Senator Jenny Mc Allister (ALP)
Tim Wilson MP (Lib)

Canberra,
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