

ARENA

Sub-Imperial State: Australian Dirty Work

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In July 1975 Australia's National Intelligence Committee (NIC) produced an assessment about the environment of the 1980s. It warned that 'there is likely to be a general phenomenon of social unrest among young people' and that the 'growing trend amongst youth' was 'to favour humanistic values that commit them to what they consider is the welfare of society as a whole rather than to follow accepted values of the societies in which they live'.¹ The NIC was reflecting elite dissatisfaction with the social upheavals that had transformed Australian life in the late 1960s and early 1970s. The peace movement, the feminist movement and the early environmental movement had a civilising influence on Australian culture, resulting in lower support for imperial wars. From this milieu emerged a new generation of journalists who were more skeptical of government claims to secrecy than their predecessors. Foremost among these journalists is Brian Toohey, whose new book *Secret: The Making of Australia's Security State* (Melbourne University Press, 2019) is a tour de force of intelligence history and national-security analysis.

Toohey writes that 'the biggest secret' about Pine Gap Joint Defence Facility in the Northern Territory 'is that it is essentially irrelevant to verifying compliance with arms control agreements'. The assertion that Pine Gap was about arms control surfaced in the 1980s, when a strong anti-nuclear thread ran through Australian public opinion. There were large public marches calling for nuclear disarmament and a nuclear-free zone in the Indian and Pacific Oceans. Many in the Labor Party's rank and file were uneasy about US bases at Pine Gap, Nurrungar and the North West Cape. New Zealand had refused to allow nuclear-armed or nuclear-powered vessels to visit New Zealand ports. Some Australians were wondering openly whether Australia should follow suit. The Hawke government, alarmed at the prospect of losing control of disarmament policy, appointed diplomat Richard Butler as Ambassador for Disarmament to represent Australia abroad and to bring the debate in Australia into line with government policy.² To contain the groundswell of public opinion, it argued that the bases provided timely information on missile launches and nuclear tests, and thus contributed to nuclear-deterrence and arms-control agreements.

But Toohey shows that ‘the central figure for arms control agreements’ is the total number of missiles and warheads, which is verified by photographic images from low-orbiting satellites. Pine Gap contributes ‘next to nothing’ because its satellites ‘only provide information about...particular [missiles] tested’. Instead, the facility acquires information from US satellites detecting heat from aircraft, artillery, missiles, drones and space vehicles, as well as military and civilian communications. The data is processed into usable intelligence and employed against those whom the US considers hostile. Pine Gap is thus ‘essentially irrelevant to verifying compliance with arms control agreements’. Its real function is to integrate Australia into American war-fighting machinery—and more, with Hawke ‘approving a US request to shift one of Pine Gap’s satellites to a better position to eavesdrop on Andreas Papandreou’s government in Greece’. Toohey remarks that the objective here ‘had nothing to do with verifying arms control treaties and everything to do with gathering intelligence on a government that favoured a more neutral foreign policy and reduced support for hosting US nuclear bases’.

Pine Gap was built and run by the Central Intelligence Agency, but its management has since passed to the US National Reconnaissance Office. It also incorporates the functions of a ballistic-missile early-warning system that operated at Nurrungar, near Woomera, from 1969 to 1999. Geostationary satellites in a Space Based Infrared System (SBIRS) look for infrared emissions from rocket launches, providing missile-warning and battle-space characterisation. The base also serves as a site for a US space-surveillance radar and an advanced space-surveillance telescope. Toohey writes that their principal task is to enable the United States to detect and destroy Chinese and Russian satellites ‘incompatible with Australia’s ratification of the 1967 Outer Space Treaty preventing the militarisation of space’.

A second key location is the Harold E. Holt Naval Communications Station near the town of Exmouth in Western Australia. Better known as North West Cape, it was established initially to relay signals to Polaris nuclear-powered submarines armed with ballistic missiles. In 1974 the Whitlam government ensured greater Australian oversight of the station by placing Royal Australian Navy personnel in the control room. According to Whitlam’s minister for defence, Bill Morrison, although the Joint Facilities ‘remained a continuing political problem’ due to some opposition to foreign bases on Australian soil, in the case of North West Cape ‘that problem was much easier now that it had become a “joint facility”’.³ However, Toohey reveals that North West Cape now has systems that allow the United States to send firing orders to its hunter-killer submarines directly from the continental United States without Australia’s knowledge. These systems ‘eliminated the previous small chance that some Australian staff member...could discover what was happening and inform the Australian government’.

The risk inherent in the loss of Australian control over these assets is alarming. The United States has built a network of undersea and overhead sensors at choke points near China’s coastline, allowing it to monitor Chinese ballistic-missile submarines as they try to gain access to the open ocean. US hunter-killer submarines can trail them and sink them at the outbreak of hostilities, eliminating China’s small nuclear deterrent. China therefore has an incentive to launch first if it believes an attack is imminent. Clearly, these arrangements contribute to a more, not less, dangerous region. In 2008 the Rudd government signed a treaty giving the United States ‘all necessary rights of access to, and use of, the station’ at North West Cape for the next twenty-five years—allowing it to be used in a nuclear war without Australia’s permission. These are important disclosures, and Toohey has done us a service by explaining technical matters so clearly.

Why do successive Australian governments act in this way—to increase insecurity in the name of national security? Toohey doesn't grapple with this question. But it matters, and must be understood: Australia is a sub-imperial state. Its geo-strategic tradition from the earliest days is to fit into the global strategy of a Great Power. The Australian colonies began their existence on the winning side of a worldwide confrontation between European empires and their exploited colonies. The organising principle of Australian foreign and defence policy is to stay on the winning side of the global contest. Australia was never the victim of British imperial policy but its junior partner and beneficiary. It acquired its own neo-colonies of Papua New Guinea and Nauru and a combined military-economic area of influence that extended to Fiji, the Solomon Islands and Vanuatu. British foreign investment in Australia occurred because British imperial power drained its other colonies of wealth and invested some of the proceeds here. From India, for example, Britain drained what today amounts to \$18.3 trillion (£9.2 trillion) between 1765 and 1938.⁴ Meanwhile, the Australian colonies were the largest recipients of British capital in the 1870s and 1880s, ensuring a long economic boom that resulted in infrastructure, construction, manufacturing and services. As much as half of the total investment came from Britain, and thus the exploitation of these colonies laid the basis for Australian capitalism.⁵

With the decline of British power, Australia aligned itself with the United States while retaining its geo-strategic tradition. It advances its economic interests—more precisely, the interests of its dominant business sectors—by working under the auspices of the United States to create an integrated global economy that offers a benign environment for Australian businesses and for international investors more generally. It is no accident that full interoperability with the United States is a core feature of Australia's military procurement of aircraft, submarines and much else. 'Security' is thus an elastic concept that gives priority to economic interests, and to a political order that secures them. 'Security' expands to accommodate what a nation or a dominant group within it has or thinks it ought to have. What is being secured is US global dominance. Australia's national-security establishment goes along almost reflexively when the US government dials up the level of international tension to create a mood of crisis and induce its allies to shelter under the umbrella of US force.

Sub-imperialism has political consequences, such as the effective exclusion of the legislative and judicial branches of government from Australia's national-security policy. There is no Australian equivalent of the US War Powers Resolution of 1973, which limits the president's freedom to order military action without congressional authorisation (except in self-defence or where there is the imminent threat of an attack). Australia's constitution does not say anything about where the power to declare war lies. It is assumed that this is part of the executive power set out in section 61. The prime minister can send the Australian Defence Force into expeditionary operations overseas without parliamentary approval. There is no constitutional need even to debate the decision before it is announced. High Court jurisprudence confirms that the scope of the executive power is 'susceptible of control by statute. A valid law of the Commonwealth may so limit or impose conditions on the exercise of the Executive power that acts which would otherwise be supported by the Executive power fall outside its scope'.⁶ Consistent with its sub-imperial status, however, the Australian parliament has refrained from intruding on executive privilege. A bipartisan consensus prevails on this matter; there was no parliamentary inquiry into Australia's decision to join the US-led invasion of Iraq in 2003.

Nor does parliament assert its powers on intelligence matters. In 1999 the Joint Standing Committee on Treaties reviewed the Australia–United States agreement to extend the operation of Pine Gap for another decade. The committee wrote to the minister for defence asking for permission to visit Pine Gap and receive an on-site, private briefing. It gave an undertaking that the information provided would remain confidential. The minister refused the request, saying that access was ‘tightly controlled’ and ‘limited strictly to personnel with a “need to know”’. Instead, he offered the committee a briefing in Canberra by senior officials from his department. The committee later described the information it received in these briefings as ‘assertions with little explanation or justification’. It said that this was ‘not an inadvertent outcome. It resulted from a conscious decision’ by senior Defence officials, ‘apparently endorsed by the Minister, to limit the amount of information provided to the Committee’. Indeed, the minister later confirmed that ‘none of the information provided to the Committee was classified’. Adding insult to injury, the committee learnt that ‘certain members of the United States Congress have much freer access to information about the Joint Defence Facility, indeed access to the facility itself, than Australian parliamentarians’.⁷ Reforms since that report have not changed the central feature of those facilities: the United States calls the shots regarding operations and capabilities.

What of Australia’s own intelligence agencies—those that aren’t termed ‘joint’? Here too the deference shown to the executive branch is remarkable, as illustrated by the predicament of Bernard Collaery, whose *Oil Under Troubled Water* (Melbourne University Press, 2020) examines Australia’s dealings with Timor-Leste. The relevant background is that the Australian Secret Intelligence Service (ASIS) carried out an espionage operation against newly independent Timor-Leste, installing listening devices in its ministerial offices during oil and gas negotiations with Australia in September and October 2004. The operation in Timor-Leste diverted precious ASIS resources away from the war on terror, allowing Jemaah Islamiyah terrorists to bomb the Australian embassy in Indonesia. Publicly, the Howard government claimed that it was deploying Australia’s intelligence resources against extremist-Muslim terrorism in Indonesia. But a senior ASIS officer, known only as Witness K, expressed concerns about the Timor-Leste operation. He is believed to have suffered some damage to his career as a consequence. He approached the Inspector-General of Intelligence and Security and obtained permission to speak with a lawyer—Bernard Collaery. At the time of writing, both men are on trial for conspiracy to disclose information about ASIS: Collaery in the ACT Supreme Court, where he will exercise his constitutional right to a jury trial, and Witness K in the ACT Magistrates Court.

This is the biggest scandal in Australian intelligence over the past three decades. For all its talk about national security and counter-terrorism, however, parliament has shown itself unwilling to inquire into the 2004 operation. It has deliberately restricted its own powers on intelligence matters. The *Intelligence Services Act 2001* thus prevents the Parliamentary Joint Committee on Intelligence and Security (PJCIS) from ‘reviewing the intelligence gathering and assessment priorities’ or ‘reviewing particular operations that have been, are being or are proposed to be undertaken’ by ASIS, ASIO and the other intelligence agencies,⁸ and likewise ‘the sources of information, other operational assistance or operational methods’ available to the agencies. The PJCIS can review only the administration and financing of the intelligence agencies, and has thus seemed an advocate for the intelligence agencies rather than an instrument of accountability and oversight. Parliament’s

studied avoidance of the 2004 espionage operation against Timor-Leste therefore encourages more such operations.

The contrast with the US Congress is striking. There, the intelligence committees and judiciary committees in the Senate and House of Representatives are regularly briefed about all authorised intelligence-collection programs, and relevant members of Congress receive detailed briefings prior to each re-authorisation. In addition, the US executive is required to brief selected congressional members on specific types of operation before they take place. Members of the so-called Gang of Four, comprising the chairpersons and most senior opposition members of the House and Senate intelligence committees, receive briefings on 'sensitive non-covert action intelligence programs', such as highly sensitive intelligence-collection programs. Members of the so-called Gang of Eight (comprising the Gang of Four and the speakers and opposition leaders of the House and Senate) receive briefings from the executive on forthcoming covert actions, without having the power to approve or veto executive plans. This preserves executive freedom while also ensuring a check on executive overreach. Furthermore, all members of the House and Senate intelligence committees and their key staffers are regularly provided with extended footage of completed operations involving, for example, drone strikes. No such provision exists in sub-imperial Australia.

Alexander Downer, foreign minister at the time of the espionage operation, later said that 'the Australian government supports Australian business and Australian industry. The Australian government unashamedly should be trying to advance the interests of Australian companies'.⁹ He was, to be sure, unashamedly aggressive towards the Timorese. In March 2002, three months before Timor-Leste became an independent state, Downer withdrew Australia from the maritime-boundary jurisdiction of the International Court of Justice and the International Tribunal on the Law of the Sea. This action, done without notifying the Australian parliament, prevented the impoverished, newly independent Timor-Leste from asserting its rights under international law. Timor-Leste needed the oil and gas revenues, which were its primary economic resource. It had an infant-mortality rate more than twenty times higher than Australia's. Its tuberculosis infection rate was more than 122 times higher than in Australia. Its maternal mortality rate was more than eighty times that of Australia's. Under the Indonesian occupation, moreover, Timor-Leste had suffered the largest loss of life, relative to total population, of any country since the Holocaust. As much as 31 per cent of the population perished. Downer told the Timorese prime minister in November 2002 that he was willing to hold up the flow of gas from the Timor Sea for decades. 'We don't have to exploit the resources', he said. 'They can stay there for 20, 40, 50 years. We are very tough. We will not care if you give information to the media. Let me give you a tutorial in politics—not a chance'.¹⁰ Bereft of funds, Timor-Leste signed the Timor Sea Treaty in 2002 and an International Unitization Agreement to define the division of the Greater Sunrise gas fields in 2003.

Who benefits from this state of affairs? In an amoral world, shouldn't the Australian government do exactly what it did to Timor-Leste, if the result was to the benefit of the Australian public? Collaery argues, however, that the Australian government omitted from the production-sharing contracts any mention of the helium recovered from flows of natural gas in the process of exploitation. Helium is an extremely valuable element, a 'critical commodity' of 'strategic national defence significance' with 'a vital role in other fields, such as magnetic resonance imaging, construction, aviation safety and the space industry'. Collaery writes that the Bayu-Undan field in the Timor Sea had ample quantities of helium, and that ConocoPhillips got it for free because it operated the field. It piped the

helium to a liquified-natural-gas (LNG) plant in Darwin, then sold the helium fraction to BOC Australia, owned by multinational supplier of industrial gas the Linde Group. The result, according to Collaery, was a helium plant commissioned in 2009 next door to the Darwin LNG terminal. With an annual output estimated at 200 million standard cubic feet, the windfall amounts to \$2 billion in revenue per year. Collaery's account shows that the Australian company has not obtained revenue benefits from the helium, whose value seems to be greater than the gas along with which it is recovered.

Another major beneficiary of Australia's Timor Sea diplomacy was Woodside Petroleum, which is almost 60 per cent owned by US-based investors. Australian-based investors own less than 20 per cent of the shares, according to data obtained from Bloomberg Professional in May 2019. Woodside is one of the top twenty corporations in the Australian Securities Exchange by market capitalisation. Its chairman, Charles Goode, 'sat on the boards of top Liberal Party fundraising vehicles that generated millions of dollars in political donations', according to an investigation by the ABC's *Four Corners* program.¹¹ Downer gained work with Woodside after leaving parliament in 2008. The secretary of the Department of Foreign Affairs and Trade, Dr Ashton Calvert, retired in 2005 and joined the board of directors of Woodside. One-time national secretary of the Australian Labor Party Gary Gray was a senior executive at Woodside Energy from 2001 to 2007. He left to contest the 2007 federal elections and later became Australia's minister for natural resources, energy and tourism.¹²

Woodside's representatives were 'involved throughout' the development of the International Unitization Agreement, according to the Department of Foreign Affairs and Trade. 'At the outset, they provided what they saw as the essential elements that needed to be addressed. They were also provided with several opportunities to comment on drafts of the Treaty and met Commonwealth officials on a number of occasions'.¹³ Parliament's Joint Standing Committee on Treaties was never given such an opportunity. A former DFAT negotiator named Andrew Serdy reflected on the 'abnormal privilege' extended 'to a private party'. In his evidence to the Senate Foreign Affairs, Defence and Trade References Committee, he stated:

From my perspective, the problem was not that the Government consciously placed Woodside's interests above Australia's own, but that senior officials at all times simply assumed—whether because of direction to that effect by Ministers or their offices I do not know—that the national interest was identical to Woodside's.¹⁴

The instruments of statecraft, as exposed by Toohey and Collaery, are wielded in the interests of those with real power: elite elements in the private sector and the US national-security state, which defends a global order protective of its interests. Australia's sub-imperial state operates under the auspices of this greater power, working for what it considers the 'national interest'—a benign environment for Australian businesses and for international investors more generally.

Notes

¹ *Environment of the 1980s*, NAA: A13797, NIC2; A13797, July 1975.

² Andrew Carr, *Winning the Peace: Australia's Campaign to Change the Asia-Pacific*, Carlton, Victoria: Melbourne University Publishing, 2015, pp 156–67.

- 3 Clinton Fernandes, *Island off the Coast of Asia: Instruments of Statecraft in Australian Foreign Policy*, Clayton, Victoria: Monash University Publishing, 2018, p. 45.
- 4 Utsa Patnaik, 'Revisiting the "Drain", or Transfers from India to Britain', in Shubhra Chakravarti and Utsa Patnaik (eds), *Agrarian and Other Histories: Essays for Binay Bhushan Chaudhuri*, New Delhi: Tulika Books, 2017, pp 278–317.
- 5 Barrie Dyster and David Meredith, *Australia in the Global Economy: Continuity and Change*, Port Melbourne, Victoria: Cambridge University Press, 2012, p. 61.
- 6 *Brown v. West* [1990] HCA 7; 169 CLR 195, 1 March 1990, High Court of Australia, <http://www.austlii.edu.au/au/cases/cth/HCA/1990/7.html>.
- 7 Joint Standing Committee on Treaties, *Report 26: An Agreement to Extend the Period of Operation of the Joint Defence Facility at Pine Gap*, Commonwealth of Australia, 1999, pp 6–10.
- 8 *Intelligence Services Act 2001* (Cth), section 29.
- 9 Marian Wilkinson and Peter Cronau, 'Drawing the Line', *Four Corners*, ABC TV, 17 March 2014, <http://www.abc.net.au/4corners/drawing-the-line/5328634>; accessed 22 April 2020.
- 10 James Irwin, 'Asia: Australia Accused', *Energy Compass*, 5 December 2003.
- 11 Wilkinson and Cronau, 'Drawing the Line'.
- 12 Fernandes, *Island off the Coast of Asia*, pp 125–6.
- 13 National Interest Analysis, *Agreement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste relating to the Unitisation of the Sunrise and Troubadour Fields*, done at Dili on 6 March 2003.
- 14 Andrew Serdy, supplementary submission to the Senate Foreign Affairs, Defence and Trade References Committee inquiry into Australia's declarations made under certain international laws; https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/EastTimor/Submissions; accessed 15 March 2020.

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