

Ex-spy and lawyer face jail for exposing Australian bugging operation in East Timor

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Nearly four years after raiding their homes and offices, the Australian government has laid serious criminal charges against a former intelligence officer and his lawyer for exposing Australia's spying operation against East Timorese ministers during talks over disputed oil and gas rights in the Timor Sea.

In a move clearly intended to send a wider chilling political message, the pair face up to two years jail for making known to the public that the Australian Secret Intelligence Service (ASIS), the country's overseas spy agency, surreptitiously bugged the East Timor cabinet room in 2004 under the guise of providing aid to the tiny state.

Attorney-General Christian Porter personally authorised the prosecution, so the decision was taken at the highest levels of the Liberal-National government. The lack of any Labor Party criticism points to a bipartisan move, in line with the Gillard Labor government's rejection of East Timor's initial 2012 complaint about the bugging.

The decision to place the pair on trial indicates that much is at stake for Australia's military-intelligence apparatus and political establishment. This is both in terms of protecting the escalating operations of the US-linked apparatus itself, and of covering up Australia's protracted bullying of East Timor, which has become a testing ground for Washington's drive to combat growing Chinese influence in the region.

Independent member of parliament Andrew Wilkie revealed under parliamentary privilege on Thursday that a former ASIS officer, who can be identified only as Witness K, and his lawyer, former Australian Capital Territory Attorney-General Bernard Collaery, had been charged by the Commonwealth Department of Public Prosecutions.

Witness K, ASIS's head of technical operations in 2004, revealed the bugging operation and was going to be a key witness in East Timor's case in the International Court of Justice at The Hague to overturn the 2006 Timor Sea treaty ultimately imposed by Canberra.

But Witness K was unable to give evidence after his passport and documents were seized and home raided, along with Collaery's Canberra office, in December 2013 by the

Australian Security Intelligence Organisation (ASIO) and the federal police.

The ruling establishment regards the pair's exposure of one of ASIS's many illegal operations as a threat to the US-led "Five Eyes" global surveillance network, of which ASIS is a key part, together with the Australian Signals Directorate, the electronic spying agency.

This network is at the centre of Washington's escalating trade war and military offensive against China, including preparations for war to reassert US hegemony over the Indo-Pacific region, which it established through World War II.

After Wilkie's speech, prosecutors confirmed the pair had been charged with breaching the Intelligence Services Act by "conspiring" to "communicate" ASIS "information." A maximum penalty of two years' imprisonment applies because the alleged offence was committed before the maximum sentence was increased to 10 years in 2014.

The confirmation came on the same day as the Labor Party joined hands with the government to ram through parliament two huge "foreign interference" bills that constitute the greatest assault on fundamental legal and democratic rights in Australia since World War II.

As part of that legislation, wider secrecy provisions have been expanded. Previous jail terms of two years for leaking classified documents have been increased to up to 10 years for communicating "inherently harmful information" (i.e., even if not classified as secret), or information that "is likely to cause harm to Australia's interests." These punishments now apply not only to whistleblowers who allegedly leak information but to anyone who helps make it public.

While denouncing "foreign interference," supposedly by China, the government is criminalising any exposure of US-backed Australian "interference," including in East Timor.

By charging Collaery, as well as "Witness K," the government is also attacking the principle of lawyer-client privilege, a centuries-old protection against authoritarian rule. This is not the only core legal and democratic right threatened. Media reports indicate that the government will apply to have the trial heard in secrecy, overturning another

key principle—the right to a public trial.

Addressing the media on Thursday, Collaery said the charges were an attack on freedom of expression, the legal profession, and on him personally for acting as a lawyer. Collaery also threw doubt over the government's case. He denied that his client was a whistleblower. "He went with his complaint to the Inspector-General of Intelligence and Security, received approval and I received approval to act," Collaery said.

The charges are the latest development in a saga stretching back to 2004, when ASIS planted listening devices in East Timor's cabinet room while the Howard Liberal-National government was coercing the impoverished state into relinquishing its territorial rights to the lucrative Greater Sunrise oil and gas field.

ASIS's illegal surveillance was just part of a concerted campaign of economic and diplomatic bullying by Canberra, from the day that it sent troops to occupy the territory in 1999, supposedly to protect the Timorese people, and continuing long after nominal independence was granted in 2002.

The Timorese leadership was coerced into dropping its request for a demarcation of the maritime border between the two countries in line with international law, which would have allocated East Timor the majority share of the undersea oil and gas fields. The chief beneficiaries were Woodside Petroleum and other Australian, US and European energy conglomerates, which secured the rights to mine the reserves.

The bugging operation also assisted the violent regime-change operation that Canberra launched in 2006 against then Prime Minister Mari Alkatiri's Fretilin government. This involved the instigation of a split within the Timorese armed forces, followed by a renewed Australian military intervention.

Under the 2006 oil and gas treaty, the Australian government secured 50 percent of the revenues from the \$40 billion Greater Sunrise gas project in the Timor Sea and deferred the setting of a maritime boundary for 50 years. By international law, Greater Sunrise should be in East Timor's territory. However, Canberra had declared in 2002 that it would no longer abide by the UN Convention on the Law of the Sea (UNCLOS) in settling the Timor border.

In March this year, the Australian government finally agreed to a treaty with East Timor that essentially conceded that their undersea boundary should be set at halfway point between the two countries, in line with international law, thus placing most of the vast untapped gas reserves within East Timor's territory.

Nevertheless, the Australian government and the transnational energy giants that control the gas fields remain

adamant that East Timor cannot have the gas processing operations, and all the associated profits.

After more than 15 years of illegally denying Timorese sovereignty in the disputed zone, there were concerns in both Canberra and Washington that Australia's defiance of UNCLOS was opening the door for China to acquire greater influence in East Timor and the Asia-Pacific region.

Beijing had politically exploited the issue to undercut the denunciations from Washington and Canberra of China's refusal to recognise a US-orchestrated international tribunal ruling in 2016 rejecting China's territorial claims in the South China Sea.

As the Chinese economy has grown rapidly over the past two decades, Chinese agencies and companies have been increasingly active in East Timor, as throughout the region, funding infrastructure and establishing business operations.

The territory is a strategic part of the Indonesian archipelago, which is pivotal to Washington's war preparations against China. Critical sea lanes, on which China depends for its trade, pass through Indonesia and have been identified by the Pentagon as "choke points" to be blockaded in the event of war.

As the documents released by US National Security Agency (NSA) whistleblower Edward Snowden have proven, Australia's spy agencies are central to the NSA's vast global surveillance operations, with Australian diplomatic missions, including in East Timor, Indonesia and China, functioning as NSA listening posts.



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