

# Timor-Leste spy case: Brandis denies referring lawyer to police

Bernard Collaery and former Asis agent under investigation by AFP over disclosure of classified information

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Bernard Collaery is representing the Timor-Leste government in international legal proceedings. Photograph: Mark Graham/AAP

The attorney general, George Brandis, has denied referring lawyer Bernard Collaery and a former intelligence officer to the Australian federal police after they revealed that Australia spied on Timor-Leste during negotiations over a lucrative oil and gas pipeline.

The AFP confirmed it was investigating whether Collaery and a former Asis agent identified only as “Witness K” had breached laws against the public disclosure of classified information, [Fairfax reported](#) on Monday.

But Brandis denied being the source of the referral in Senate question time on Monday. “The AFP received the referral from Asio, acting under section 18 of the Asio Act,” he said.

Collaery is representing the Timor-Leste government in international legal proceedings, seeking to annul the 2004 treaty that resulted from the allegedly bugged negotiations.

After his Canberra home and office were raided, the lawyer gave details of the alleged spying to the ABC and other media organisations, revealing that the former Asis agent turned witness had planted listening devices in the Timor-Leste government’s offices to give Australian negotiators an advantage in the talks.

The federal police have reportedly approached the ABC for unedited footage from its interviews with Collaery.

The shadow attorney general, Mark Dreyfus, questioned whether this was “the appropriate time to be pursuing its action, given that the court has ordered Australia not to interfere in any way with the communications between East Timor and its legal advisers”.

“Australia’s international reputation has already been damaged by the Abbott government’s inept handling of this matter,” he said.

Independent MP Andrew Wilkie, who quit the Office of National Assessments in 2002 and revealed that the then-Howard government had distorted the case for the war in Iraq, told ABC radio on Monday: “As a general rule intelligence officers and intelligence officials should be keeping quiet and going about their work.

“Except, of course, in extraordinary circumstances, and this particular East Timor episode is a particularly murky and ambiguous situation,” he said.

“It appears that Australia was spying on the East Timorese, not for some legitimate security reason but rather to put us in a better position, and put some corporations in a better position when it came to negotiations over oil and gas in that part of the world,” he said.

The head of the NSW Council for Civil Liberties, Stephen Blanks, said the lack of a public-interest defence available to Collaery or the agent was “a gaping hole in Australia’s legal system”.

“Some of the most important breachers of classified info have been totally justified because of those being in the public interest,” he said.

“What this prosecution will do is have a chilling effect on potential whistleblowers and the media and if it continues, there will be self-censorship and the media will not live up to its obligation of being a fearless investigator and reporter on matters of national importance.”

Enhanced whistleblower-protection laws, which came into effect in January, do not apply to Asia agents. Last month the government proposed to introduce a new offence punishable by five years in jail for “any person” who disclosed information relating to “special intelligence operations”.

The amendments are intended to directly address the possibility of intelligence agents following the lead of NSA-whistleblower Edward Snowden, but there are fears that journalists could also be caught in the dragnet.

The non-executive director of Transparency International Australia, AJ Brown, who advised on the new whistleblower laws, said that without extending to intelligence agents the protections were “simply not doing their job”.

“The balance is all wrong at the moment,” he said. “It’s of great public importance and great concern, because at the moment it’s far too easy for too much potential wrongdoing to simply escape attention.”