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Timor-Leste oil saga gets uglier

A FORMER spy and his lawyer face up to two years in jail after being charged for exposing the Australian government's bugging of Timor-Leste ministers during a dispute over maritime oil and gas rights.



Andrew Wilkie

Australian independent MP Andrew Wilkie revealed under parliamentary privilege that a former Australian Secret Intelligence Service (ASIS) agent, who can only be identified as Witness K, and his lawyer, former ACT attorney-general Bernard Collaery, had been charged by the Commonwealth Department of Public Prosecutions, the Australian Financial Review reports.

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 to the pair because the alleged offence was committed before the maximum jail sentence was increased to 10 years.

Addressing the media after Wilkie's speech to Australia's parliament, Collaery said the charges were an attack on freedom of expression, the legal profession, a "patriot" who cannot speak for himself in

Witness K, and on him personally for acting as a lawyer.

"It's a sad moment in the history of a country I love and I have served," he said.

"One thing I want to make abundantly clear: Witness K was not 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 prosecutors were making the "strange accusation" that he had entered into an arrangement with ASIS when he began to represent Witness K and was therefore unable to speak about the bugging operation.

"I will survive these rats who are pursuing me at the moment," he said.

"The government will simply pursue this vindictive prosecution to ruin my reputation and my career."

Attorney-General Christian Porter said he had consented to the prosecution going ahead, as required under the act, and would not comment any further.

"I would also encourage any member with an interest in this case to be conscious of the fact that the priority must be to allow judicial processes to be conducted without commentary which could impact on the fairness and regularity of those proceedings," he said.

The charges are the latest development in a saga stretching back to 2004, when ASIS planted listening devices in Timor-Leste's cabinet room while the fledgling nation attempted to settle its maritime boundary with the Howard government. The boundary was crucial to determining the rights to the lucrative Greater Sunrise oil and gas field.

Witness K, ASIS's head of technical operations at the time, revealed the bugging operation and was going to be a key witness in Timor-Leste's case in The Hague.

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 ASIO and the Federal Police.

Wilkie told Parliament it was an "insane development" that charges had been filed against the pair, who were being turned into "political prisoners".

He said the timing of charges was curious given Australia and Timor-Leste had just finalised talks on a new treaty that rewarded the tiny nation with up to 80% of revenue from the Greater Sunrise project.

"It seems that with the diplomacy out of the way it's time to bury the bodies," he said.

Wilkie said the bugging operation was "illegal and unscrupulous" and while the Howard government had been the perpetrators, subsequent Liberal and Labor governments had continued to cover it up.

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AG silent on Timor-Leste decision

AUSTRALIA'S attorney general has refused to elaborate on why he approved the prosecution of a former spy who revealed Australia had bugged Timor-Leste's cabinet rooms, describing it as an "independent decision" of prosecutors.



Christian Porter

The Guardian newspaper's Paul Karp reports that Australian Independent MP Andrew Wilkie has blasted the government for approving the prosecution and suggested it has leaked information to a journalist to defend its position.

On Thursday Wilkie used parliamentary privilege to reveal the man, a former employee of the Australian Secret Intelligence Service known only as Witness K, and his lawyer, Bernard Collaery, were being prosecuted.

At a press conference in Perth on Monday, Christian Porter said he consented to the prosecution after "very detailed, very thorough" advice from the independent commonwealth director of public prosecutions.

Asked if the prosecution was an attack on basic freedoms, the attorney general replied that "people will take their own views" on the case.

He acknowledged the case needed his consent as attorney general to proceed, but characterised it as "an independent decision made by the director of public prosecutions based on their evidence and the law and their guidelines".

Witness K was a key witness for Timor-Leste in a case against Australia over allegations the cabinet rooms in the capital Dili were bugged during negotiations over a gas and oil treaty in 2004.

The former Asis officer was supposed to give evidence at the permanent court of arbitration in The Hague, but was unable to leave Australia because his passport was seized in 2012.

Timor-Leste dropped the spy case against Australia last year as an act of goodwill ahead of signing a new resources treaty.

On Monday Wilkie pinned blame squarely on the government, telling reporters "all the DPP does" is make a recommendation, and "the decision to prosecute is entirely a decision for the attorney general".

Wilkie said he had "no reason to speak ill of the DPP", and accused Porter of a "political decision to go after Witness K and his lawyer".

The independent MP also referenced comments by the Australian's columnist Niki Savva on ABC's Insiders on Sunday. Savva suggested the attorney general had no room to move because his predecessor George Brandis had sought information from the CDPP, which resulted in the recommendation, and if Porter had ignored it he would have "faced a lot of grief".

Wilkie suggested people would be "appalled" by this, accusing "someone in the government" of leaking protected information to a journalist to defend its position.

Earlier, Porter was asked why "those who perpetrated the act" had not been pursued - a reference to the fact nobody has been charged for bugging Timor-Leste's cabinet rooms. He replied he did not understand the question and would not go into the substance of the Witness K matter before the courts.

"I am not the prosecutor, nor is the government the prosecutor," Porter said. "I am not the judge nor the jury in this matter, and nor is the government."

Porter said he would not comment because "expansive commentary does no assistance to the defence or the prosecutors or the court or the jury in directing a regular trial".

On Thursday Collaery explained he and Witness K face charges of conspiracy to breach section 39 of the Intelligence Services Act for allegedly communicating information they obtained in the course of employment or an agreement with Asis.

He described Australia as a police state, warning the case was "unprecedented" and meant that Australia was "not a safe country to represent another sovereign power anymore".

Collaery said Witness K was not a whistleblower because he "went with his complaint to the

inspector general of intelligence and security", and received approval to disclose the alleged bugging. Similarly, Collaery said he had received approval to act for Timor-Leste in international proceedings.

The case will begin with a directions hearing on July 25, during which the court will consider whether to hear it in private, The Guardian reports.