

Labor shelves election promise for inquiry into prosecution of Witness K and Bernard Collaery

Plans for investigation into Timor bugging scandal have failed to transpire more than 18 months after government was elected

Sarah Basford Canales in The Guardian, 11 January 2024

Labor has quietly shelved its pre-election promise to hold an inquiry into the controversial 2004 [Timor-Leste](#) bugging scandal and the former Coalition government's pursuit of ex-spy Witness K and his lawyer, Bernard Collaery.

It comes as newly released documents reveal the lengths the Albanese and former Morrison governments went [to keep "national security" information in the case](#) from being released to the public. That material was ultimately deemed low risk by the ACT court of appeal.

In August 2021, amid [heavy criticism over the secrecy](#) shrouding the cases of Collaery and Witness K, Labor promised to hold an inquiry if elected after it voted with the then Coalition government to [block a crossbench push for one](#).

Collaery had been charged for his alleged role helping Witness K reveal an Australian espionage mission to spy on [Timor-Leste](#) during negotiations over oil and gas reserves in the Timor Sea in 2004.

The prosecution against Collaery was [later dropped by the attorney general, Mark Dreyfus](#), who said the decision had been made in commitment to "protecting Australia's national interest, including our national security and Australia's relationships with our close neighbours".

The now finance minister, Katy Gallagher, then in opposition, [told the Senate a Labor government](#) "will ensure an inquiry into the circumstances of the intelligence operation conducted by the Australian Secret Intelligence Service (ASIS) in Timor-Leste, and the subsequent decision to prosecute Witness K and his lawyer Mr Bernard Collaery".

Gallagher added the former attorney general's "unexplained decision to prosecute Witness K and Mr Collaery, and his attempts to have the trial of Mr Collaery conducted in secret, appear to be part of a broader shift towards more secrecy and less accountability in government".

But plans to establish the inquiry have failed to transpire more than 18 months after Labor was elected to government.

A spokesperson for Dreyfus said the case against Collaery had been dropped "within weeks of coming to office" but offered no further comment on whether a parliamentary inquiry would be launched.

Gallagher, at the time, said Labor would reject the former senator Rex Patrick's motion to refer Australia's involvement in the Timor-Leste bugging operation to an inquiry after determining the [parliamentary joint committee on intelligence and security](#) (PJCIS) was limited in its powers.

She said at the time that Labor would instead amend the laws to further expand the oversight of the powerful parliamentary watchdog, and allow it to undertake such inquiries in future.

Patrick said it was time for the Albanese government to finish what it started in opposition.

"[Labor is] totally captured by the security apparatus and their approach is now at odds with all the other members of five eyes, who have strong parliamentary oversight of their intelligence services," he said.

"It's time that the parliament did their job properly, and took on responsibility."

In June last year, Dreyfus introduced proposed laws that would grant the PJCIS additional powers. That bill is before the PJCIS for review.

On Tuesday, the ACT court of appeal released the judgments relating to how much of the prosecution of Collaery could be conducted in public, more than two years after a landmark ruling lifted the veil on the lawyer's trial.

The federal government fought against the full judgment's release, after it was handed down in October 2021, arguing a number of redactions needed to be applied in the interests of national security.

The court found the former Coalition government's reasons for shrouding the highly publicised trial in secrecy were "replete with speculation and devoid of any specific basis".