

Crossbench pushes for inquiry into prosecution of Witness K and lawyer

Labor seeks briefing from Christian Porter – who accuses party of saying one thing in public and another in private

Christopher Knaus in The Guardian 7 July 2020

Crossbench senators are pushing for a parliamentary inquiry into the treatment of the lawyer Bernard Collaery and Witness K, while Labor has pressed the attorney general to explain his decision to approve the prosecution and enforce secrecy in the case.

The Greens, Jacqui Lambie and Centre Alliance have all voiced support for an inquiry into [the affair](#), and the shadow attorney general, Mark Dreyfus, has told Guardian Australia he is seeking another briefing from his counterpart, Christian Porter, before negotiating with the crossbench on possible further action.

Dreyfus sought a preliminary briefing from Porter after a [court ruling last month](#) to keep parts of the Collaery trial secret.

He says the briefing did not resolve Labor's questions. The opposition has "sought further information and expect to receive a more detailed briefing shortly".

"I remain concerned about the decision to prosecute Mr Collaery and Witness K in the first place," Dreyfus told Guardian Australia this week. "That decision has yet to be adequately explained by the current attorney general."

Collaery, a former Australian Capital Territory attorney general, is facing trial for his role in exposing an intelligence operation to bug the Timor-Leste government while it negotiated a treaty with Australia that dictated access to oil and gas reserves.

Witness K is a former officer with the Australian Secret Intelligence Service who became uneasy about the operation.

Dreyfus said Labor would be in a better position to negotiate with the crossbench on "any possible further action" once it had received the Porter briefing.

Porter has criticised the comments, saying Labor never raised concerns about the prosecution during private briefings.

He said both Dreyfus and Labor's shadow foreign affairs minister, Penny Wong, had received briefings about the Collaery case directly from him, his office and the Australian government solicitor, including last week and in March.

"In the numerous briefings on the issue, Mr Dreyfus has never raised any concern about the decision to prosecute Mr Collaery," Porter told Guardian Australia on Tuesday.

“Indeed, Mr Dreyfus has consistently expressed views to me in our briefings which have been entirely consistent with what he told the Guardian on 13 September 2018: ‘the charges are serious and it is important to let the judicial process take its course’.”

Porter attacked Dreyfus for saying one thing publicly and another in private. He said the reasons for prosecution [had already been articulated in 2018](#) when news of the summons against Collaery and Witness K was revealed.

The crossbenchers want Labor to do more on the issue. Lambie said she would support an inquiry and urged Labor to “show some courage and integrity and start being an opposition party”.

“[It’s] a government cover-up at its very best,” she said. “I’ll be supporting a parliamentary inquiry.”

The Centre Alliance senator Rex Patrick said the government’s pursuit of whistleblowers, the lengthy delays in the case and the cost of the prosecution were “just a few aspects that require examination”.

“Centre Alliance will support a referral to a committee. I’d like to think Labor might support it, but given their conscious avoidance on this matter, I’m not holding my breath,” he said.

The Greens senator Nick McKim said there was no need to wait for the criminal proceedings to finish before beginning such an inquiry. “This is one of the most shameful episodes in Australia’s recent history, yet has never been fully scrutinised or explained,” he said on Tuesday.

“We treated our nearest neighbour, and one of the poorest countries in the world, with utter contempt, and the Australian and Timorese people deserve answers.”

Even with Labor’s support, the numbers would be tight in the upper house. The push for an inquiry would still need one more senator – either a government senator willing to cross the floor or Pauline Hanson or her One Nation colleague, Malcolm Roberts.

Witness K expressed his concern about the Asis mission at the time internally through the intelligence watchdog and obtained permission to see an approved lawyer, Collaery.

Collaery later helped Timor-Leste mount a case in the international courts against Australia.

The federal government approved a prosecution against Collaery and Witness K last year after a new treaty had been signed with Timor-Leste. Collaery is facing trial and Witness K is being dealt with separately.