

Australia accused of playing dirty in battle with East Timor over oil and gas reserves

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- [Spying on East Timor 'hypocritical'](#)

A balmy summer morning, the leafy back streets of Narrabundah in suburban Canberra, and some 15 besuited ASIO agents are ringing the doorbell of a modest red brick home that doubles as the office of lawyer Bernard Collaery.

Across town, a smaller team of operatives has been dispatched to the home of a former Australian Secret Intelligence Service officer, now star witness for East Timor in an increasingly bitter legal dispute with the Australian government over \$40 billion worth of oil and gas revenue from the Timor Sea.

The former ASIS agent has revealed an alleged spying operation by Australia on East Timor's cabinet offices under then foreign affairs minister Alexander Downer.

As many as 15 ASIO agents swarmed over Collaery's office, tailed by a cameraman. They brought ladders, laptops and several imposing black cases for storing and copying documents.

Collaery's senior clerk, Chloe Preston, was handed the search warrant but not allowed to copy it. They stayed for six hours and scoured the office, accessing every computer, going through filing cabinets, drawers and searching in the building's cavities for every last skerrick of potential material.

The agents took laptops and USB sticks containing documents for many of Collaery's clients, including the East Timor government.

ASIO and Attorney-General George Brandis, who authorised the meticulously planned action, would have known Collaery was overseas. The lawyer for East Timor, and former ACT attorney-general, believes he would have successfully sought an injunction to stop the raids if he were present. Moreover, the paperwork to cancel the passport of the former ASIS agent was already prepared.

What, exactly, the agents removed or copied remains unclear, but it is believed to include briefs from East Timor's international lawyers and an assessment of the evidence in a contentious arbitration in The Hague over the rich oil and gas fields in the Timor Sea.

Australia is the other party in the arbitration over the treaty governing the reserves, worth at least \$40 billion and perhaps much more.

Senator Brandis maintains the raid was about national security, not about the arbitration. Any seized files would not be passed on to its lawyers battling East Timor. To suggest otherwise would be "wild and injudicious".

A former intelligence officer had breached the Intelligence Services Act by divulging classified material that threatened Australia's interests, he reasoned in Parliament, and action had to be taken.

Collaery, the East Timorese government and stunned observers believe it could only be linked to the case, given the Australian government was aware of the former ASIS agent's allegations for more than a year.

"This had nothing to do with national security," Collaery says. "It was to find out what the case we had against them [was], and to hobble our witness."

In truth, the saga is ultimately about East Timor's future, and the wealth of some large oil companies.

As the one major oil field in the Timor Sea that sends royalties to Dili winds down, the fledgling and poor nation is facing a potential collapse in income within a decade and a bleak future of economic misery and political and security instability.

For the leadership that fought the Indonesian invasion in 1975, and took control of the government, this is their final big struggle.

East Timor wants a new and better share of the oil and gas revenue, resources it believes fall well within its sovereign waters.

"This is the unfinished aspect of Timor Leste's fight for independence," says Charlie Scheiner, a Dili-based analyst.

Damien Kingsbury, a professor of international relations at Deakin University and long-time observer of East Timor, said the raids proved two things, neither of them particularly flattering for the Australian government. "It was just monumentally inept," Kingsbury says.

"First of all, it was a slap in the face of the judicial process under way in The Hague. And, secondly, it basically confirmed the allegation of spying was well-founded."

From the Timorese perspective, one dirty trick confirmed another. And a tradition of underhand and bullying Australian conduct over the Timor Sea oil and gas deposits dating back before its independence was continuing.

For decades, under governments of both political persuasions, Australia was alone in recognising Indonesia's sovereignty over East Timor during its brutal occupation.

During this time, it signed a hugely beneficial deal for almost complete access to the Timor Sea gasfields thanks to a highly favourable maritime boundary that was close to Timor's land mass.

As independence loomed, Australia promptly withdrew from the Law of the Sea, the convention that determines sea boundaries based on international law.

For countries of close proximity, the median line, equidistant between the countries, is usually the boundary, but Indonesia was happy to acquiesce to its southern neighbour.

It then began pressing East Timor to recognise the maritime boundary. Timor refused and negotiations began, but these were hardly equal partners around the table.

Ravaged by the violence surrounding the independence vote in 1999, when retreating Indonesian

forces and militia razed villages as they left, Timor was barely functioning as a nation-state. Its civil service was dominated by Indonesians, who had all left. Of those 900,000 or so people who remained, barely 1000 of them had a high school diploma or better.

Desperately poor, troubled by ethnic tensions and anxious to begin building the institutions of government and wean itself off international aid, East Timor was desperate for revenue.

Pierre-Richard Prosper, a former US ambassador for war crimes, landed in Dili when its buildings were still smouldering in 1999. He has assisted Timor, on and off, ever since, and is now acting for them as a private lawyer with DLA Piper.

"Australia always seemed to be negotiating when Timor Leste is at or near a time of maximum vulnerability," he says. "You have a weakened opponent who will have a sense of desperation and need to take a quick deal."

The amount of the resource at stake was constantly underestimated - or "low-balled" - by the oil companies and the Australian government, he said. A window of opportunity for commercial development.

There were also suspicions Australia was intercepting the communications of East Timor's leaders, although there is no hard proof.

Two treaties were signed. The first in 2002, just when East Timor formally became a nation, split revenue evenly between Australia and East Timor, but left the boundary issue open for later discussion.

The second, in 2006, gave East Timor a 50/50 share of royalties from the big deposit known as Greater Sunrise, worth an

estimated \$40 billion and to be developed by Australian energy behemoth Woodside. Overall, East Timor tripled its revenue take, but forfeited the right to discuss the boundary for 50 years, when most of the reserves will be spent. For Australian governments ever since, it was a hard-fought and binding agreement, endorsed by East Timor's parliament.

But East Timor feels it was robbed of its rightful resources and was under immense pressure to ratify it, given the country was grappling with an army mutiny and deadly ethnic clashes. "At the end of the day, we are not happy with what we got," says Resources Minister Alfredo Pires. "Under the international Law of the Sea, all of these resources would be Timor Leste's. We want to exploit Greater Sunrise for our children."

Greater Sunrise - the oil and gas jewel in the Timor Sea worth \$40 billion - remains undeveloped. Timor believes the pipeline and processing hub should be on its land, providing much needed jobs for its many unemployed youth. It now has the power to block it, and remains in a stalemate with Woodside.

Darwin, which hosts the only pipeline from the Timor Sea, is booming while East Timor is running out of money. Adding to its grievances, it feels the oil companies are evading tax while accessing lucrative helium-3 gas reserves and not sharing the proceeds.

More than 95 per cent of the entire nation's income comes from oil and gas revenue and, Kingsbury says, government spending in Timor is "deeply unsustainable". "If they continue spending at the rate they are spending now, they will run out of money in 10 or 12 years," he says.

Belts are being tightened to stop the budget haemorrhaging and, as a result, a recession looms when infant and maternal mortality remains unacceptably high and youth illiteracy and youth

unemployment are the norm.

East Timor, Charles Scheiner says, has not always spent wisely. "Half of the state expenditures pay foreign contractors to build infrastructure, while investing in human resources - health and education - is far below international norms," he wrote in a recent report on his La'o Hamutuk website.

"If the non-oil economy hasn't developed when it runs dry in half a generation, poverty will increase far beyond the current 50 per cent."

The signs are that the Australian government will defend the maritime boundary with all its resources.

Whatever protocols ASIO will follow in securing the documents, the raids in Canberra on December 3 show that Australia is playing hardball, provocatively so. Brandis' contention that it was purely about national security wobbles under scrutiny.

Australia has known about the ASIS agent's allegations for at least a year.

Former prime minister Julia Gillard declined to investigate or enter negotiations with East Timor, although there was one low-level follow-up meeting in Bangkok.

The espionage allegations were first made public by Labor ministers Bob Carr and Mark Dreyfus in May but it was only when lawyers in The Hague began talking about witnesses for the arbitration that the ASIO raids were ordered. Brandis was acting on a recommendation from the ASIO head David Irvine.

Irvine was head of ASIS when the alleged bugging operation was ordered in 2004.

Australia has hired some of the world's foremost international law experts and the case in The Hague is being run by Solicitor-General Justin Gleeson, QC.

East Timor has some international heavy hitters in its corner too, including the British lawyer and academic Sir Eli Lauterpacht.

As it stands, Collaery says he has copies of most of the documents and files he believes were seized, and more besides.

East Timor's bid to get the seized documents back will be held before the International Court of Justice next month. Further hearings will take place later next year to hear argument about whether the treaty governing the Timor Sea should be annulled because of the spying, an apparent breach of the Vienna convention on treaties.

Within the senior ranks of the intelligence community in Canberra, there is defensiveness. Intelligence gathering during such negotiations are commonplace. Everyone does it, and has done for years.

There is also concern that any redrawing of the sea boundary with East Timor would encourage Indonesia to do the same.

In the end, though, it is Australia's perceived economic interests that have driven diplomacy and intelligence gathering with East Timor.

Timor has received about \$13 billion in royalties since 2002, Australia less than half that amount but with all the economic spinoffs of Darwin's LNG and helium-3 plants. It is an immense challenge for Timor. For the "generation of 1975", the end of their political careers is coming. Jose Ramos-Horta,

the smooth diplomat, is no longer president. Xanana Gusmao will retire as Prime Minister within 18 months. There is urgency and determination about their advocacy.

Gusmao was in strife-torn Sudan when he got the news of the raids. Seething, he composed his response as he shuttled back and forth from a village called Malou, damning Australia's "unconscionable and unacceptable conduct".

"It is behaviour that is not worthy of a close friend and neighbour or of a great nation like Australia," he said.

Gusmao was in South Sudan as chairman of the G7+, a grouping of 18 fledgling states, many of them perilously fragile and poor, charting their way through nationhood.

As if to prove a point about the vulnerability of these nations, South Sudan imploded into violence less than a fortnight after Gusmao left. The village of Malou fell to the rebels, and 1000 have died and 100,000 have been dispossessed in the wider fighting.

South Sudan, like East Timor, is one of the world's poorest nations and relies on oil and gas revenues for more than 90 per cent of its revenue.

East Timor is more advanced than South Sudan and less prone to violence, but East Timor itself was on the brink of civil war in 2006 after half the armed forces mutinied.

A glimpse into the future without oil and gas revenues can look very grim indeed. For the East Timorese especially, but also for Australia's security interests.

This story was found at: <http://www.smh.com.au/national/australia-accused-of-playing-dirty-in-battle-with-east-timor-over-oil-and-gas-reserves-20131227-2zzmi.html>