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## Interview: Peter Galbraith, former US politician and diplomat, who also served as a United Nations envoy to Afghanistan

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**Tony Jones speaks with Peter Galbraith, who was part of the UN transitional administration in East Timor in 2000 and 2001 and a cabinet member in the fledgling nation's first transitional government. He was also the lead negotiator for East Timor during the talks with Australia, aimed at producing a new oil and gas agreement to replace the Timor Gap treaty.**

### Transcript

TONY JONES, PRESENTER: Our guest is Peter Galbraith, a former American politician and diplomat who also served as a United Nations envoy to Afghanistan from 2000 to 2001. He was part of the UN transitional administration in East Timor. He served as a cabinet minister in the fledgling nation's first transitional government. Peter Galbraith was the lead negotiator for East Timor during the talks with Australia aimed at producing a new oil and gas agreement to replace the Timor Gap Treaty. He joins us now from Boston, Massachusetts.

Thanks for being there, Peter Galbraith.

PETER GALBRAITH, FMR LEAD NEGOTIATOR FOR EAST TIMOR: Good to be with you.

TONY JONES: Now do you have a view as to whether the Australian operation to spy on your negotiating team was a crime?

PETER GALBRAITH: Well clearly it was a crime under East Timor law. Obviously it's a crime to break into the offices of the Prime Minister and the cabinet and to place bugging devices. It's a crime to commit espionage. So crime under East Timor law. I can't say whether it would have been a crime under Australian law, but clearly a crime under East Timor law.

TONY JONES: Well you've just heard a prominent Australian lawyer, Nicholas Cowdery QC, says there's a prima facie criminal case under Australian law of conspiracy to defraud the East Timorese Government. Do you think that case should be tested?

PETER GALBRAITH: Well, I certainly think it should be tested. There are really two issues here. First, under Australian law, can Australians send agents into the cabinet offices of a friendly country? That may or may not be the case. But there's really a separate issue, which is: do you use your intelligence services for the purposes of spying on what were essentially commercial negotiations, basically serving the interests of the Australian Treasury, but also of the oil companies, as part of a complex negotiation. I was the lead negotiator on all of this and what's critical in these negotiations - I get my instructions from the Prime Minister - I get to know what East Timor's bottom line is. What is the minimum that they will agree to settle for? And if the other side knows that, it has incredibly valuable information. It knows that it doesn't need in its negotiations to go beyond that bottom line.

TONY JONES: Any potential criminal prosecution in Australia would hinge on whether ASIS, the spy agency, acted improperly. Their key defence would be that their action was in the national interest. Is it conceivable, given the huge amounts of revenue that were involved there, that this could be construed as being in a nation's national interest?

PETER GALBRAITH: Again, I don't know Australian law. I don't know what Australia defines as national interest. But I spent much of my career as an American diplomat and I can tell you that of course we engage in a lot of espionage, but I have never seen the United States do this for a commercial advantage. It's always been for things that fall within what I think almost everybody would agree was national security, combating terrorism, understanding what the Soviets are doing. So, you know, I would say that this might well be illegal, but again, I don't know - I'm not an expert on Australian law, but what is clear is Australia was not doing this for national security reasons, it was doing it for its commercial interests, to help the oil companies and to secure additional revenue for the Treasury.

TONY JONES: It sounds like from what you're saying that in diplomatic circles in the United States, potentially at high levels, since I imagine you have moved at quite high levels in the United Nations as well and possibly in the security agencies in the States, that there must have been a degree of shock that Australia would do this.

PETER GALBRAITH: Well I don't know how closely people have followed all this, but I think Americans and the intelligence services would find it surprising that Australia, which is thought of as a - well, frankly, along with the Scandinavian countries, as one of the good government countries in the world, a country that engages in economic development, that has stood for fair play, that has been a proponent of international law, would engage in this kind of espionage. And incidentally, this wasn't just intercepting emails and cell phone conversations. Frankly, I assumed Australia was doing that. But actually to engage in a break-in in the cabinet offices and the Prime Minister's offices of a friendly country, you know, that really is - that's not something the United States would do, and again, we have undoubtedly the most significant - significantly-funded intelligence service in the world.

TONY JONES: Now, you do know quite well the Foreign Minister at the time, Alexander Downer. You would have had direct meetings and negotiations with him, no doubt. He actually maintained that it would have been a dereliction of the Australian Government's duty if it didn't support the interests of its major companies and the Government should be trying unashamedly to advance the interests of Australian companies. He said that openly in a documentary about this subject.

PETER GALBRAITH: Well, and that's exactly how Alexander Downer and his negotiating team behaved both in the first round of negotiations over the - what was the Timor Gap in 2000-2001 and again in the CMATS negotiations in the period 2004 to 2006. The Phillips Petroleum, now ConocoPhillips, Woodside, basically dictated the Australian agenda. So, one had the feeling when one was negotiating with Australia, particularly with Alexander Downer and in the first round with Nick Minchin, who was the Industries and Natural Resources Minister, that you were negotiating with the representatives of the companies. And one of the arguments they had for trying to deprive East Timor of the revenues that it was entitled to under international law was that putting this area under East Timor jurisdiction would mean higher taxes on the companies. Frankly, that was their number one concern, because for Australia, the amount of additional revenues isn't really that important. I mean, Australia's a very rich country and, you know, a few hundred million a year more or less is

not making that much difference to Australia, but to the companies it was very important and that was what always struck me was at the top of Alexander Downer's agenda in these negotiations.

TONY JONES: Now, Peter Galbraith, do you understand how this whole spying operation worked? Because we've been told, for example, that one key player delivered transcripts of the bugged conversations from the embassy in Dili straight into the hands of Australia's negotiating team?

PETER GALBRAITH: Well, if you're going to be bugging the cabinet offices for the purposes of finding out what was going on in the negotiations, of course you would want to deliver, you want to hear what was going on, make transcripts, and then, in order for them to be useful, they'd have to go to the negotiating team. So, I'm not sure quite how it would have worked mechanically. I imagine there were transmitters from the cabinet offices. The embassy has listening devices around it so you pick up the signals. They're probably sent onto Canberra and transcribed by your equivalent of the National Security Agency and then delivered to the people to whom they're useful.

TONY JONES: Were you aware at any time or did you suspect that the people sitting across the negotiating table had that kind of advantage, that kind of information?

PETER GALBRAITH: I was deeply suspicious of what Australia was doing, and of course, because of my own experience, I knew what the capabilities were, particularly with regard to cell phones and electronic communications. So when I had meetings with my negotiating team, I made everybody not only turn off their cell phones, but put them in a separate room. I said that we can't discuss this stuff by email, so it required me to make many trips from the United States, where I was living, to East Timor as part of the process of planning for the negotiations. So I assumed Australia was spying in more or less the conventional way, but of course I had no idea that Australia would go to the extreme of a burglary, a break-in and then planting bugging devices.

TONY JONES: Were you surprised at all to hear in our story just past that the Prime Minister Julia Gillard, on receiving information, receiving in fact a letter from Xanana Gusmao, who was then Prime Minister, because this all came out some years later, saying that - or issuing a serious complaint about the nature of this: sent to talk to him, someone who had been involved in the operation and that he knew that? Were you surprised by that?

PETER GALBRAITH: No. I think this is how intelligence services behave. The Prime Minister learns that some misconduct took place. They of course say, "Madam Prime Minister, no it didn't," and she wants to send a delegation, so of course they will choose the person who was actually involved in the action. I think that's just how they behave. It's the mentality that whatever we're doing is right and it's - they're also extremely defensive about their personnel.

TONY JONES: We're just about out of time, so a quick answer to this one, but obviously this is now going back to The Hague, to the Permanent Court of Arbitration. Do you - does the court have the power to cause the treaty to be renegotiated and do you think it should be?

PETER GALBRAITH: Well I think the treaty actually represented a reasonably good deal for Timor - East Timor, but they could have done better. I think there's one other part of this negotiation though that is worth noting, which is the Australians, when they broke into the - Bernard Collaery's office, they seized East Timor's documents for the arbitration. Now of course they claim that they aren't looking at them, but if you believe that, I'll sell you shares in the Brooklyn Bridge. Of course they've looked at them, of course they would have been shared with the legal team handling the arbitration and so that's an additional element of unfairness to this whole process.

TONY JONES: Peter Galbraith, we're out of time. We'll have to leave you there. Thanks very much for getting up so early to speak to us.

PETER GALBRAITH: Well, thank you.

TONY JONES: And we did request interviews with David Irvine, Alexander Downer, John Howard, Julia Gillard and former Resources Minister Ian Macfarlane. None of them was available.