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## **Agency, Truth and Meaning: Judging the Hutton Report.**

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Among the many controversies associated with Britain's decision to go to war with Iraq, the Hutton Report has been one of the more significant and widely discussed events. The Report marked the culmination of Lord Hutton's inquiry into the circumstances surrounding the death of Dr David Kelly, a senior government scientist and one of UNSCOM's chief weapons inspectors who had responsibility for investigating Iraq's biological weapons programme. Dr Kelly's apparent suicide in July 2003 had followed his appearance before two parliamentary committees, after his emergence as the primary source of a controversial broadcast on BBC Radio 4's Today programme. Based on information allegedly provided by this then anonymous source, the broadcast had suggested that the Blair Government had exaggerated ('sexed-up') and possibly even lied about aspects of Iraq's weapons programme.

These allegations pertained to the Government's dossier on weapons of mass destruction [WMD], which had been prepared by the Joint Intelligence Committee (JIC) and delivered by the Prime Minister to Parliament during September 2002. The dossier's most spectacular claim (repeated there four times) concerned Saddam's ability to deploy WMD within 45 minutes of an order being given, a claim widely credited with swinging reluctant backbenchers behind the Government's decision to go to war. Its significance was therefore enormous, not only in persuading the British Parliament to vote for war, but also in providing the international support that lent legitimacy to George Bush's commitment of American troops to a pre-emptive attack on Iraq.

Against the background of a deeply divided country, and with popular doubts about WMD exacerbated by a further, 'dodgy' dossier (significant parts of which had been plagiarised from the internet), Tony Blair himself was openly accused of lying by much of the British press. Despite its scientific importance, Dr Kelly's professional role in these events had so far been minor and uncontroversial, but his interview with the BBC's investigative reporter Andrew Gilligan and the broadcast that followed it on 29 May 2003 changed all that. The broadcast brought to a head an ongoing conflict between the BBC (over its reporting of the war) and the Government (with Downing Street's director of communications Alastair Campbell being an especially vociferous critic of an alleged anti-war agenda), but it also triggered a chain of events that would result in Dr Kelly's public naming and suicide. It was then out of these highly charged circumstances that the Hutton inquiry emerged and it was into their politically and emotionally intense atmosphere that the 740-page Report was released on 28 January 2004.

In this article I will offer an analysis of the text and immediate context of the Hutton Report. Writing as a political theorist, it will be the Report's underlying assumptions that interest me. This sort of inquiry has its credentials in a critical approach to political analysis. Its aim is to interrogate deeper levels of political life where meanings are generated; where unquestioned presuppositions are in play; where power relations operate on a largely invisible level beneath overt political behaviour, and discursive regimes affect (even constitute) norms of behaviour or knowledge. Such an approach requires a close reading of texts, where it pays especial attention to apparently common sense claims or approaches that signal fidelity to

particular and contested philosophical perspectives, as these have become disseminated across the public realm. Aware of theoretical arguments at this deeper level, it can then trace their effects within more mundane writings. It is especially alert to inconsistencies or slippages, but also to places where disagreements are unconvincingly resolved or controversial issues are glossed over. It traces the emergence of key meanings and definitions across the text to see how these develop or swerve, and what they take for granted or expose. It looks carefully at language use and its ambiguities or metaphors. It also pays attention to context. While the Hutton Report has been subjected to intense scrutiny by journalists and public figures, the contribution of the theorist is then to acquire more critical distance from events and to explore more deep-seated assumptions, concepts and methods that inform or facilitate key arguments and positions, without their exponents being aware of the philosophical presuppositions they carry or of their contested nature.

This sort of critical approach is typically brought to bear on philosophical texts and it might at first seem unlikely that a Report such as Hutton's is amenable to or deserving of this level of scrutiny. 'Judging Hutton: political not metaphysical!' might summarise such misgivings. Yet every text or political act, no matter how apparently prosaic, draws on a particular set of presuppositions regarding the nature of being and our relationship to it. These for the most part remain unexamined because they are part of a cultural horizon, a set of seemingly commonsense ideas that comprise a familiar lifeworld. But such presuppositions are not politically innocent or neutral. They have consequences for power relations because they limit, engender and shape the perspectives of those who take them for granted. They remain contingent and contestable. One role for the analyst is therefore to elicit and reflect upon these subterranean dimensions of political life and their implications. This can, moreover, include any significant text that enters the public domain. Indeed, I suggest that political inquiry is impoverished to the extent that theorists only analyse theoretical texts and ignore the more mundane reports and statements that help constitute everyday political life. Because of its political importance and controversial reception, the Hutton Report provides important material for this level of analysis and the latter is vindicated by the illumination it might bring not only to the content and conclusions of the Report, but also to explanations for the scepticism with which it was received.

My argument will be that the Hutton Report was based on certain interrelated notions of agency and truth, which were in turn closely associated with a specific sense of language and meaning. Together these provided the foundations for Hutton's thinking. They thereby informed the Report's methodology and conclusions but they also circumscribed, even constituted, the way Hutton interpreted his remit and what he was able to investigate. This helps to explain, I will suggest, how the Report could be judged as simultaneously just and unjust, impartial and politically partisan. It also offers some insight into the values that inform public life in Britain and the way meaning and truth emerge into the public domain. What my analysis will further show is that while all the major players in this drama subscribed to Hutton's presuppositions sufficiently to comply with his inquiry, there was also an implicit struggle over how truth, language and meaning should be understood and negotiated. This provides a subtext to the Report, as a site of and unwitting participant in a discursive conflict, although one that Hutton was himself unable to recognise or therefore to comment on.

Once published, the Report was immediately accused of being a smokescreen, whitewash or distraction.<sup>1</sup> Hutton's arguments were not of course contingent on their

popularity and nor could the Report's gaining popular acclaim be a criterion for his conclusions. But he did need to convince his audience that this was a fair and objective document, even if its conclusions were unwelcome. The inquiry was after all a component within a broader political situation, where the Government was seeking a vehicle to demonstrate its integrity in light of widespread public disquiet about its role in Dr Kelly's death and concern about the links between his suicide and wider issues surrounding the run-up to war. It was inevitably read within this political context and had a public function. Lord Hutton was surely disingenuous if he imagined the Report would be understood in isolation. But even in its own terms, the conclusions he reached in the Report seemed to be at odds with the evidence he had gathered so meticulously during the inquiry: evidence that was already in the public domain since the inquiry had been widely reported and followed by a fascinated public. Why, then, was his interpretation of his own evidence so controversial, and was there good reason for the scepticism with which his Report was greeted, beyond its political unpopularity?

While many blamed the Government for his setting his remit too narrowly, Hutton the man now came under critical scrutiny. His experience had after all been that of the Diplock Courts in Northern Ireland<sup>2</sup> and as a law lord, he was clearly part of the Establishment. While few went so far as to claim that he had been politically manipulated, some critics did suggest that Hutton's conclusions – which left the Government almost entirely exonerated of any deception, or responsibility for Dr Kelly's death, while being profoundly critical of the BBC – were unsurprising, given senior judges' conservative predilection to support the state and their ignorance of the practices of investigative journalism. But the habits and practices of judges are themselves expressions of a broader set of presuppositions and these need to be elicited and reflected upon if those expressions are to be subjected to critical scrutiny.

For its part, Downing Street was swift to reject any suggestion that the Report reflected such subjective elements.

A dispassionate judge has looked at the facts and has made his judgement on the facts. That's where the matter should rest. We accept there was a lot of emotion and anger but the judge has reached his conclusions... and what people should recognise is that this is the judge's verdict.<sup>3</sup>

This bald statement exemplifies the meaning of truth that Hutton himself held and that he deployed throughout his inquiry. One aim of my analysis will be to show that no conspiracy or *ad hominem* theory is needed to explain the one-sidedness of the Report's conclusions. There are undoubtedly flaws and examples of poor reasoning there, which critics were swift to elucidate in the days following publication. But in this article I will suggest that regardless of these lacunae, Hutton's underlying premises already guaranteed that his conclusions, no matter how objectively they were reached in his own terms and regardless of his shortcomings in this regard, would be partisan. This occurred not because he was politically biased in any explicit way, but because he inevitably favoured – he could only make sense of and find persuasive – those logics of action that complied with his own basic presuppositions and discursive framework. As I will argue below, he was aided here by the complicity of those who found themselves caught up in a different logic but who lacked the opportunity or discursive resources to make their case or to shift the rules of the game under which the inquiry proceeded.

## **Agency, Truth, Language and Meaning: Discursive Hiatus**

The ideas I identify as underlying the Hutton Report are typical of mainstream western modernity. First, there are ontological presuppositions regarding mind-body dualism. This means that corporeal and emotional phenomena are separated from factual events and distrusted as sources of distortion or distraction that are irrelevant or dangerous to the truth. An epistemological split between subject and object is a corollary of this view and it underpins conventional scientific approaches. Correct method here entails an impartial agent, who separates facts from values in order to deliver objective truth from a position outside events that is untarnished by subjectivity. The quotation above about truth exemplifies this view. Breaking down complex events into their simpler, individual parts and then building up explanations of more complex phenomena through deductive reasoning or an establishment of causal chains, is integral to this method. So is an empiricist commitment to the observation and collection of facts. Such ontological and methodological orientations were implicit throughout Lord Hutton's inquiry into the circumstances surrounding Dr Kelly's death, where they circumscribed and engendered the questions and answers that made sense to him.

Second, a series of related assumptions means that individuals are held morally (and legally) responsible for their acts. From this perspective, intentions are more important than empirical consequences and it is the state of an agent's 'soul' or subjectivity (good conscience, good faith, honesty, sincerity, integrity) that is at stake. Although agency looks more subjective here, there is still a strong sense in which truth and morality are objective phenomena that require rational actors to set aside their passions or the contingencies of their situation. A rather absolutist, back-and-white moralism tends to follow. Such a perspective emerges clearly from the Report, where it was shared by all the main actors in the Hutton inquiry and by Lord Hutton itself. Such conceptions of truth and moral agency favour methodological and ethical individualism. It is discrete agents who are held responsible for social phenomena: as judges of the truth, as causes of events and as accountable actors. This common sense approach is implicit in most political analysis and the Hutton Report was no exception.

A 'common sense' view of language and communication is, thirdly, congruent with this constellation of ideas. It is assumed here that language can and should be an unambiguous medium for communicating facts and judgements. Clear definitions and expressions cleansed of rhetorical excess or emotional distortion are the means for conveying objective truths or intentions, fixing meanings and achieving consensus. It follows from this perspective that cleaning up language could in many cases dissolve disagreement without the necessity of visiting the messy, controversial substance of conflicts. It is thus a means of depoliticising socially divisive issues. Unequivocal language is *a fortiori* essential to the dissemination of information, whether in public policy or broadcasting. The attention Lord Hutton paid to the term 'sexing-up' is indicative of this view.

These, in sum, were the parameters of Hutton's thinking and the primary aims of my analysis will be to show how resolutely he subscribed to them, plus the consequences of his doing so. But such presuppositions are not of course unique to him. They are fairly standard 'Establishment' views and were shared in varying degrees by all the key actors in the drama. They are also widespread among political

theorists and social scientists, as well as among the general public (in modern western societies, at least), which is why they remain largely invisible and unquestioned.

They are not however uncontested. Having identified their counter-meanings, I will suggest that these operated as a subtext within the inquiry: as a secondary series of meanings that many of the key players also implicitly invoked but which Hutton consistently sought to nullify. I further suggest – although more speculatively - that a possible explanation for the public’s sense of injustice (whose intensity does not seem to me to be adequately explained by referring to specific inconsistencies in the Report) is that many people implicitly identify with these counter-meanings, although they are no more likely to articulate them than were participants in the inquiry. In short, there was a dimension of discursive conflict, or at least of complexity, at stake - both within the inquiry and between the Establishment (of which the Report is a part) and sections of the public – and this is where Hutton’s real one-sidedness and fundamental bias lay.

Two models of truth, then, operate within the Report. The one practised by Hutton is based on empirical and legal criteria, which favour a sense of truth as definitive, objective and unequivocal. The other model perceives truth as ambiguous, hermeneutical, perspectival, (inter-)subjective. It envisages what I will call a phenomenology of meaning, that is, meaning that emerges contingently and ambiguously within experience and among situated actors, over time. A sense of language as shifting and unstable, open and plural, accompanies it. It does not follow from this second view that meaning is relative and consensus, chimerical. But there is an irreducible sense in which meaning remains in-process and contestable because there is always an element of creativity and interpretation involved. In communication, too, there is invariably scope for rhetorical, gestural and emotional intrusion, as well as for misunderstandings and slippages that leave interlocutors and auditors with differential senses of outcomes. This sense of truth, meaning and language was often exemplified and appealed to by Dr Kelly, as well as by key witnesses in Hutton’s inquiry.

The other main area of hiatus concerns the notion of agency, where the individualist methodology I ascribe to Hutton has been widely contested by critics who contend that agents’ acts and motivations can only be appreciated if contexts and structures are taken into account.<sup>4</sup> On the one hand, the elements of subjectivity on which traditional senses of agency rely - in particular notions of an essential inner self that is rational, endowed with reflexive self-knowledge, responsible for its acts and susceptible to definitive judgements regarding its moral integrity - have been thrown into doubt. On the other, there are widespread social scientific claims that analyses of social events which focus solely on individual actors will fail to gain more than a superficial understanding of the forces at work. While Hutton’s emphasis on responsible agency may be widely – even officially - held within modern western societies, it vies with a more experiential sense of individuals operating within intersubjective and constraining contexts, where meanings or outcomes emerge in ways over which individuals often have little control and whose responsibility is thus limited. From this perspective, individual actors were subjected to unrealistic standards of accountability and truth. Agents inevitably operate within plural and contested fields of forces and where Hutton failed to situate his key actors in emotional, linguistic, political and institutional force fields, his conclusions seem unjust. Given his remit, institutional structures - in particular the intelligence, political

or broadcasting communities whose practices provided norms for behaviour, truth and knowledge-generation for the dramatis personae – were crucial yet neglected.

The discursive hiatus identified in this section explains the logic, the internal tensions and the implausibility of the Hutton Report. It is now necessary to consider these claims more carefully by examining the text.

### **Facts and Details: In Pursuit of Objective Truth**

A positivist-juridical (empiricist-legalistic) conception of truth is central to the Hutton Report's remit, methodology and conclusions. Its understanding of agency, language and meaning follow from it. In his inquiry into the circumstances surrounding Dr Kelly's death, Lord Hutton was confronted by a vast array of contingencies and emotions to which (rather like the social or natural scientist) he needed to bring some order and explanation. The approach he chose was predicated on scientific and legal models, both of which emphasise the collection and analysis of facts. Such empiricism informed Hutton's objectives: to 'state in considerable detail the relevant facts' and 'also, insofar as I can determine them, the motives and reasons operating in the minds of those who took various decisions' [10<sup>5</sup>]. This would mean identifying which facts were relevant and establishing their truth with forensic exactitude, before reconstructing their causal sequences in an objective way. This may seem an eminently sensible and innocuous strategy but what it did, I suggest, was to focus attention on those aspects of the complex circumstances surrounding Dr Kelly's suicide that were amenable to this sort of approach and to rule out other areas that were inherently confused or open to interpretation or speculation. This, then, explains the narrowness with which Hutton drew his remit<sup>6</sup> and why even within it, there was a built-in bias towards the kind of facts that could be established definitively. Its corollary was that claims that were unable to meet these strict criteria of validity were discounted or disparaged as 'unfounded'.

An attraction of this approach would be that it appears to render the Report's conclusions impersonal and apolitical. Although Hutton would need to select and interpret the facts in order to make sense of the narrative established by his inquiry,<sup>7</sup> his conclusions emerge almost as self-evident truths that appear to do little more than reiterate what had already been stated as evidence. One is therefore left with an impression of the truth speaking itself, with Hutton its spokesman rather than judge. This is consonant with an antipathy towards the idea that truth is a matter of interpretation and hence dependent upon subjective judgement. Once the facts were laid bare, they gave the impression of yielding their own conclusion as something already inherent within them: a rational, impartial outcome that invited consensus. This is why on one level the Report does look compelling.

A further advantage for Hutton of this positivism was that it allowed him to concentrate on small factual details where truth could be established definitively, without opening his inquiry to a morass of ambiguous forces and controversial questions. Conor Gearty points out that 'a key part of the success of a judge lies in his or her skill at isolating the issue for decision' and that Lord Hutton himself is 'a man more inclined to focus on the narrow point than to indulge in grand claims or unnecessary generalisation.'<sup>8</sup> This tendency allowed him now to refuse to consider the validity of the Government's claims about WMD. Instead he chose to focus on the procedural propriety involved in producing the dossier that made the claims and the



managerial processes surrounding the BBC's allegations. His conclusions would accordingly look more bureaucratic than political. For the details of micro-management have more affinity with a focus on small facts than does an assessment of geopolitical forces.

The scientific model of objective truth is one that Dr Kelly the biologist would have understood in his research. It is the model also invoked by the police, who originally treated Dr Kelly's death as a criminal investigation: 'very early on in the inquiry one sets up a series of hypotheses which one tries then to knock down.' [150] The huge number of individuals contacted, statements taken, documents and computer files collected are listed, as well as the hypotheses that were discounted in order to establish agency here as 'self-harm'. Murder, accidental death, blackmail, the involvement of the 'dark actors' referred to in an e-mail by Dr Kelly, all had to be eliminated [125; 140; 141]. Police strategy here is an exemplary model for Hutton. Yet even the police admit that 'entirely honest witnesses' often offer divergent reports of a crime scene [151], while the forensic experts consulted were only willing to commit themselves to the judgement that the evidence made suicide 'well nigh certain' and 'strongly points' in that direction [149]. So there is recognition that even in the most factual domains, accounts of empirical evidence are never entirely reliable, while scientific truths remain falsifiable. Scientists themselves are rarely crude empiricists because their method behoves them to acknowledge that the facts have to be selected and interpreted, thereby introducing a subjectivist element. If Hutton's approach sometimes looks more positivist than good science allows and his faith in the facts unwarranted, perhaps it was a legalistic imperative to find the accused innocent or guilty according to legally admissible standards of proof that underlay his commitment to so definitive, objective and empiricist a sense of truth.<sup>9</sup>

An obsession with facts is indeed linked here to a particular sense of agency. By attributing effects to identifiable agents as their cause, Hutton was again able to clarify and simplify his task by specifying individual responsibility for the circumstances of Dr Kelly's death. Although the Report exonerates any particular individual from direct blame, it does focus almost exclusively on who did or said what. Indeed Hutton states unequivocally that 'it has been inevitable in the course of the Inquiry that attention has focussed on the decisions and conduct of individual persons' and that it is right for him to pass judgment on them [12]. This allowed him to combine empiricism with a juridical model whereby the relevant actors were effectively put on trial. The format of the inquiry – hearing and cross-examining witnesses in order to collect evidence, with a law lord passing judgment – indeed rendered such an approach almost inevitable and Hutton's reference to the law of defamation [282; 467.3.ii] indicates that he did indeed think of his inquiry as a trial whose purpose was to attribute blame. This allowed him to ignore the broader structures and forces within which agents were operating, but it also meant that his factual interest in establishing agents' acts and states of mind was supplemented by judgements concerning their personal integrity and intentions.

### **The Imperiousness of Forensic Truth**

So far I have argued that an empiricist and juridical understanding of truth circumscribed Hutton's inquiry by defining what he could legitimately consider or conclude, thus apparently depoliticising his task. I now want to make a second claim: that it was personally disastrous for the individuals on whom the spotlight of truth

fell, while it distorted the significance of their acts. Hutton's sense of the truth's detailed, factual basis is indicated nicely here by the term 'forensic': a word that appears several times in the Report although in illuminatingly diverse contexts. Forensic is a legal term used in medical jurisprudence, but it is also used more generally to signify incisive, penetrating procedures for establishing factual evidence. While forensic pathologists would establish the details of Dr Kelly's death, he would also be subjected to forensic examination while alive. For once Dr Kelly had surmised to his line manager that he might be the BBC's source, his superiors proposed a 'proper security-style interview' where inconsistencies in his story would be subjected to 'more forensic examination.' [58; 60] This was intended to establish what occurred during the interview with Gilligan 'with a reliability that will stand up to the glare of public scrutiny.' [62] Its purpose was to defend the Government in the event of Kelly's name becoming public but also, to establish whether he was in breach of rules about speaking to the press and thus required disciplining. In re-examining these events, Hutton was thus replicating an earlier interrogative style and its sense of truth. If an additional task was now to establish whether this process might have been responsible for Dr Kelly's suicide, Hutton also took over the misinterpretation of events that the original inquiries had perpetrated when they imposed a narrow, forensic sense of truth on an experience that had been intersubjective, open to interpretation and poorly remembered or transcribed. The distortions caused by this view of truth thus occurred twice over.

Dr Kelly had testified before the Foreign Affairs Committee [FAC] and the Intelligence and Security Committee [ISC] only days before his suicide. He was interrogated with legalistic precision and what is apparent is how poorly he was able to recall or fix what had once been quite casual conversations and spontaneous experiences. Because the processes in which he had been caught up were never lived with forensic rigour, their lively and ambiguous significance was now suppressed and distorted under its gaze; transfigured in the name of the truth. It is not therefore surprising that his appearances should have caused Dr Kelly considerable anxiety. The meaning of what he had done was being reconstructed in a way over which he had little control, even while he was being held responsible for its consequences. In other words, he was being posited as an accountable agent even as his responsibility for events and their interpretation was being eliminated by a discourse of truth that was taking on a constructive life of its own. Possibilities were translating into facts, ambiguities into a yes or no. First-person experience and third-person accounts, the subjective and objective elements of truth, were coming apart.

As a consequence, Dr Kelly could neither deny nor accede to the truth that emerged. The more forensic his interlocutors became in their determination to establish the truth, the more he entered a grey zone of uncertainty, confusion, forgetting and denial, where meanings shifted and the unstable significance of words became evident. One reporter would describe him as 'chatty', but his chatting somehow seemed to have propelled him into a situation that could bring about the downfall of the Blair Government. The 'factual accuracy' invoked by officials was becoming increasingly elusive and when Dr Kelly was interviewed on 7 July, the truth of what had transpired was already blurred for him. While he denied making the kind of allegations attributed to him as the BBC's source, he was now reinterpreting his interview with Gilligan in a more sinister light. 'I am beginning to realise that I might have been led on!' [64] Appearing before the FAC on 15 July, he admitted his conversation could have reinforced some of Gilligan's ideas and he confessed to a

belated realisation that he might 'inadvertently' have contributed to them [103]. Appearing before the ISC on 16 July, he conceded that he might have attributed the emphasis on the 45-minute claim to a need for 'impact', although he denied passing judgment on the claim itself despite being 'puzzled' by it. He was obliged to admit nonetheless that he may have encouraged Gilligan to believe he felt its inclusion was unwise. 'That's a possibility, I can't, really can't, because you are talking about a dynamic and I really can't recall... I have to admit it's a possibility, yes.' [112]

David Kelly killed himself the following day. Would it be too dramatic to claim that he was a victim of truth? His sense of events transmogrifying, as he tried to make sense of an increasingly distant conversation now caught between shifting signifiers and dynamic power relations on one hand and the forensic imperative to fix their truth with unequivocal precision on the other, is almost palpable. All that remained for Dr Kelly was to insist he had acted in good faith despite losing control of meanings and consequences. In this context the truth was a cruel, blunt instrument.

But Dr Kelly was not the only person subjected to this kind of interrogation. Andrew Gilligan was also required during the Hutton inquiry to reconstruct the crucial interview. Under cross-examination he was obliged to admit that his allegations were 'incorrect' and to acknowledge that charges of exaggeration had assumed an objective sense of alleging government dishonesty [245]. Gilligan's role in the circumstances surrounding Dr Kelly's death was in fact a major target of Hutton's forensic investigation. His rather haphazard way of working (where he cryptically abbreviated, erased or lost notes) clearly infuriated Hutton, who went to inordinate lengths to establish the veracity of Gilligan's reporting of his source's claims. He was determined to establish the accuracy of Gilligan's transcription of his notes from the interview, to the extent of inviting computer experts to attempt a recovery and dating of files in his electronic notebook. Hutton's primary criticism of the BBC reporter would be that the latter had failed to quote his source verbatim and he excoriated the BBC for failing to check its reporter's notes. Yet it is difficult to see why this was so important to his inquiry since on the one hand, Dr Kelly's involvement and questioning were never contingent on (and nobody was able to establish) the precise accuracy of Gilligan's account and on the other, Hutton would argue (controversially) that the law of defamation allows for no distinction to be made between the BBC making its own allegations and its reporting those of a source [282]. One could attribute a political agenda to Hutton here but it is unnecessary: his attraction to small details that could be determined with precision; his insistence on playing by the rules and his focus on agents' accountability already predisposed him towards this line of inquiry.

### **Definitions and Ambiguities: A Contested Sense of Language**

Hutton's criticisms of the BBC reporter illustrate his penchant for clear and unambiguous language. In this context he was evidently impressed by the Today editor's retrospective admission that this was a piece of good journalism marred by a 'loose use of language and lack of judgement in some of his phraseology' [284]. This was sufficient in Hutton's eyes to condemn it and it was not a flaw he intended to repeat himself. One of the most controversial parts of his Report would involve his determination to bring precision to the term that became the focus of controversy concerning the Today broadcast: the charge that the Government's dossier had been 'sexed-up'. As I mentioned earlier, the sort of confidence in unambiguous language

that Hutton exhibited is often associated with a belief that political conflicts can be resolved by defining key terms properly and this was what he now attempted. But the act of defining can itself of course be intensely political.

While the BBC denied it had ever accused the Government of outright lying, it did stand by its charge of `sexed-up`. So the term rightly occupies an important place in the Report although a rich language of roughly synonymous terms actually flourishes there. Over-egged, over-hyped, exaggerated, embellished, misrepresented, toughened up; made more exciting, strong or assertive; changed for emphasis or impact by alterations of tone and nuance, were all terms used by participants at various times. Dr Kelly himself seems to have volunteered the terms `spin` and `word-smithing` to other BBC reporters, [34; 36] but although the term `sexed-up` was originally credited to him, Gilligan later suggested that the actual word used was `sexier` and that he might himself have proposed this, with Dr Kelly merely registering his assent by repeating it. Hutton, however, paid no attention to the linguistic nuances operating here, even though it was precisely fine shades of meaning and subtle degrees of presentational intervention that were at issue. Assuming that all these words are reducible to `sexed-up`, he proceeded to define the latter in a way that is unconvincing given its contexts of usage and disingenuous given popular familiarity with the operation of political spin as occupying an amorphous region of meaning between truth and lies.

Two issues were at stake in teasing out a definition of `sexed-up`: whether Gilligan's use of the term amounted to a de facto accusation of lying on the part of the Government and whether the dossier did indeed amount to an act of deception by the Government. It is worth reproducing the key paragraph in the Report in full here.

The term `sexed-up` ... is capable of two different meanings. *It could mean that the dossier was embellished in terms of intelligence known or believed to be false or unreliable to make the case against Saddam Hussein stronger, or it could mean that whilst the intelligence contained in the dossier was believed to be reliable, the dossier was drafted in such a way as to make the case against Saddam Hussein as strong as the intelligence contained in it permitted.* If the term is used in the latter sense, then because of the drafting suggestions made by 10 Downing Street for the purpose of making a strong case against Saddam Hussein, it could be said that the Government `sexed-up` the dossier. However in the context of the broadcasts in which the `sexed-up` allegation was reported and having regard to the other allegations reported in those broadcasts I consider that the allegation was unfounded as it would have been understood by those who heard the broadcasts to mean that the dossier had been embellished with intelligence known or believed to be false or unreliable, which was not the case. [208.8, emphasis added]

`Sexed-up` is clearly a term that Hutton disliked: it is `slang` and `lacks clarity`. His ruling shows that he believed nonetheless that he could reduce its sense to two opposing meanings: essentially, as either lying or clarifying the truth. The effect of this strategy, I suggest, was to eliminate by fiat a grey area where words, meanings, and representations remain ambiguous and open to a variety of interpretations, such that the distinctions between representation, presentation and misrepresentation defy definitive judgements of truth versus falsity. As a consequence of his binary definition, Hutton was able to conclude on the one hand, that Gilligan did accuse the Government of lying because his audience could only have understood his allegations

in this way (rather than as an allegation of something less explicitly morally or legally culpable), and on the other, that since the Government had not blatantly lied, it must have been telling the truth. The either/or sense to which `sexed-up` was reduced therefore delivered unequivocal judgements, by reducing the issue to one of wrongful allegation (defamation) and moral integrity.

A careful examination of the text shows how all this was achieved and it is Hutton's first alternative of a definition for `sexed-up` that is crucial here. It could mean `embellished with items of intelligence *known or believed to be false or unreliable*' [emphasis added]. But notice here how smoothly this option slides from one sense (embellishing that might change or misrepresent the evidence short of outright lying; a sense that no longer stands as a possible definition in its own right) into another (embellishing equals an intentional and explicit act of lying). This first definition thus elides two quite different kinds of accusation and crucially, it thereby precludes the possibility either of understanding Gilligan's accusation as being that the Government was exaggerating short of lying, or of this being what the Government was actually doing. Accordingly, the sense in which I suggest most people understood `sexed-up`, along with the more credible accusation it entailed (of a nuanced shift of significance through presentational embellishments that technically conformed with but subtly shifted the emphasis and significance of what the JIC had established), was simply deleted by an act of definition.

The alternative sense Hutton attributed to `sexed up` conforms rather precisely to Campbell's explanation of his role in `strengthening` the dossier's presentation.

I think if you are saying "strong" equals "sexed-up", I do not accept that at all. If you are saying "strong" equals a good, solid piece of work that does the job that the Prime Minister wants it to do, then I agree with that. [219]

Although Campbell himself rejects the equation of strengthening with `sexing-up` here, Hutton's acceptance that the Government did `sex-up` the dossier in this sense robs it of any pernicious implication. Campbell argued that any intelligence document fit for public consumption requires clarification to make it a better, stronger document. Exaggerating (embellishing) thus becomes strengthening and strong, sound. The Government was, in sum, cleared by Hutton of sexing-up the dossier in any deceptive sense because of the crude, binary way he defined the term and his unwillingness to distinguish three possibilities: lying, misrepresenting by embellishing but without lying, and clarifying in good faith.

What the exchanges between Campbell and Hutton about the dossier's redrafting and Campbell's presentational role actually reveal, nonetheless, is that the dossier and its authors were inhabiting precisely that grey, ambiguous zone of meaning where `spin`, resignification and deception can flourish with legal impunity. If the JIC did resist some of Campbell's suggestions, others were allowed to stand on grounds of their logical rather than substantive merits. [e.g.214] But probably, too, they stood because the subtle changes they introduced looked insignificant individually or because objections were too difficult to formulate.<sup>10</sup>

It has not been my intention here to pass judgement on the Government's integrity in producing the dossier, but to show how Hutton's basic ways of thinking circumscribed the way he approached his inquiry and passed judgements in the Report. In this context it is worth glancing at the Butler Report<sup>11</sup> – published twenty-four weeks later - not because it reversed Hutton's conclusions but because of its

willingness to enter that crucial zone of ambiguity that I am accusing Hutton of vacating. Although aspects of this second Report, which reviewed the intelligence on WMD, were criticised, it courted nothing like the controversy of its predecessor. Might this not in part be because its underlying assumptions are more congruent with its purpose? Without allocating blame, this Report accepts that 'in translating material from JIC assessments into the dossier, warnings were lost'; that the dossier's language 'may have left readers with the impression that there was a fuller and firmer intelligence behind the judgements than was the case' and that such judgements 'went to (although not beyond) the outer limits of the intelligence available.' The erroneous impression may have been reinforced, the Report adds, by the Prime Minister's description of intelligence within the dossier as 'extensive, detailed and authoritative'. (Butler, para. 464) It concludes that the unqualified 45-minute claim should not have been included and notes that this 'led to suspicions that it had been included because of its eye-catching character.' (Butler, para. 511) These interpretations, impressions, omissions, suspicions describe a region where imagination, doubt, hesitations, pressures, deception and presentation are not clearly delineated; one wherein considerations of 'sexing-up' and responsibility might have been finessed in a more circumspect manner. If Hutton's approach was that of the judge, then this is perhaps the mark of Butler the career civil servant.

### **The Phenomenology of Meaning**

Hutton's pursuit of unequivocal language, definitive truth and personal responsibility were implicitly contested during his inquiry by some of the protagonists' experiences and their expressions of the subtle, multiple possibilities of language and of the contextual, unstable nature of truth. It is these latter senses that are consonant with what I have called the phenomenology of meaning: the way knowledge and significance emerge through an intersubjective and contingent process. An examination of testimony during the inquiry reveals information reaching the public domain via processes that are more akin to this choreography than to the one Hutton presupposed.

The premise that logically precedes the inquiry is that the intelligence services were able to present reliable, factual information to the Government: the only issue for Hutton was whether the latter had represented it accurately. Yet the evidence he heard from members of the services (and reinforced by the Butler Report) suggested a more hazardous process, where the dividing line between science and politics was more porous and mobile than he allowed. This was especially the case regarding the 45-minute claim, where a linguistic dispute between officers had turned on whether the term 'intelligence suggests' should have been used in the dossier rather than the stronger 'we judge'. The former term's more hypothetical form signified the claim's insufficient corroboration and hence its provisional nature. It was thus favoured by those who felt that information from a single source, whose evidence was second hand and possibly involved a misinterpretation, warranted nothing stronger. In order to arrive at the more assertive 'we judge', however, the intelligence services added a further ingredient: historical and contextual knowledge was used to supplement and verify raw data. Facts plus interpretation – objective data plus a subjective and structural contribution – thus yielded intelligence claims. This does not of course render them unfounded or gratuitous, but it does involve a degree of hermeneutical,

probably deliberative, judgement that Hutton's neat dichotomies and empiricist faith failed to acknowledge.<sup>12</sup>

Why is this important? First, because it suggests there are opportunities for subtle ideological influences to intervene without the necessity of intentional deception. Facts are never just empirically available for clear linguistic presentation; they require judgement and judgements involve subjective, discretionary elements and perspectives. Intelligence, as the Butler Report would put it, is 'often, when first acquired, sporadic and patchy, and even after analysis may still be at best inferential.' (Butler, para. 49) But analyses are made by agents who are unavoidably situated within political contexts and thus susceptible to their influence. Lord Hutton seemed briefly to recognise this in his evocative reference to the JIC's having possibly been 'subconsciously influenced' by the Government's desire for a stronger statement of the Iraqi threat [228; 467.1.vii]. But he would have lacked the conceptual resources to explore this further even had he not immediately dismissed its likelihood. Data-gathering, judgement, presentation and spin are all stages on a productive continuum and they cannot be neatly divided into objective facts versus their true or false representation, as Hutton implied, nor hidden beneath a blanket invocation of state security, as the Government hoped. There are many opportunities for political judgements to influence intelligence judgements, even prior to their entering the political and public domains.

Secondly, this phenomenology of meaning has ramifications beyond the Hutton Report and significance for any assessment of the intelligence agencies themselves. This pertains especially to the Butler Report, whose appreciation of the phenomenology of meaning was, I have suggested, more sophisticated than Hutton's. The Hutton inquiry did establish that some intelligence officers felt 'we judge' was 'too strong' a statement regarding the 45-minute claim [467.1.iv]. Their concerns did not reach the JIC, which was why Hutton was technically correct in exonerating the Government of political meddling. He merely noted that the JIC is reviewing its procedures since dissenting voices should have been heard (an oversight later deemed 'unhelpful and potentially misleading' [464] and reiterated in the Butler Report, which made some firmer institutional recommendations). But it is not only the dysfunctional management systems of the intelligence hierarchy that are at stake here.

Following publication of the Report, the term 'group think' emerged to suggest that a more insidious aspect of the phenomenology of knowledge had been glimpsed. The term alludes to a tendency for communities to confirm and reproduce what they already know and thus to discount dissonant voices or perspectives. Accordingly, the 'data plus judgement' process has an inherently conservative, consensual tendency to confirm the present by reference to the past. An appreciation of this tendency is therefore needed to counteract it. Intelligence gathering is not a democratic process but it is not pure science either. Unless its contingent and intersubjective aspects are recognised it is unlikely to produce good intelligence, regardless of its susceptibility to political tinkering. The Butler Report would both reinforce this view and use the term 'group think' explicitly, to define the danger of 'prevailing wisdom'.<sup>13</sup> (Butler, paras. 57, 448) To overcome such preconceptions, this Report commends the use of imagination at all stages of the intelligence process and encourages the institutionalisation of structured challenges.

Thirdly, Hutton's failure to appreciate this process not only allowed him to exonerate politicians too readily; it also encouraged him to condemn the way a news

story emerged - through an almost identical process of weaving together facts, interpretations, judgements and rhetorical flourishes – unfairly, by measuring it against criteria of truth that it was even less likely than the intelligence services to achieve and to which indeed it should not, in a democracy, have been obliged to adhere. Gilligan may not have quoted Dr Kelly verbatim but evidence revealed that the scientist had been present during conversations when intelligence officers were discussing their unhappiness with the dossier's more definitive claims about WMD [464]. What he told Gilligan may or may not have been factually inaccurate but it seems a plausible interpretation of dissent that should have reached higher echelons, while Gilligan's broadcast was probably based on a reasonable inference from what he had been told. There is an almost exact mirroring here, in fact, of the way both the JIC and the BBC drew on single sources they considered 'credible and reliable' and corroborated via reference to congruent data already in the public domain [267; 272]. As the BBC's then director-general Greg Dyke pondered during the inquiry, recent events had 'certainly exposed... politics and journalism' as 'far from exact sciences' once they were subjected to 'forensic examination.' [287]

The impression Dr Kelly conveyed of the dossier's production resembled the process one glimpses of news production at the BBC. Both are surely familiar to anyone working in a bureaucracy under pressure. There is a sense of frenetic activity as many individuals try to collate masses of information under extraordinarily tight deadlines. With scant time for debating dissident opinions, subtleties, caveats and managerial guidelines are too readily eliminated or ignored during the reiterations of drafting or broadcasting. Pressures from higher echelons or personal ambition perhaps render participants compliant with linguistic or presentational changes whose significance is not immediately apparent. It is within this more hazardous, *ad hoc* generation of meaning that spin can readily do its work without anything so crass as a lie or invention. At every level of communication and knowledge-generation covered by the inquiry, what Hutton's witnesses testified to were facts waiting like dots to be joined up into a recognisable pattern by subjects' interventions. Sometimes an irresistible causal logic guided them, but judgements were more typically supplemented by plausible deductions and inspired guesswork as well as by emotional and political expectations, hopes, fears and ambitions, which operated subconsciously as well as consciously. In weaving facts together reasoning, imagining and spinning are less distinguishable than Hutton believed, while individuals were also woven together through dense structural lines of force that he ignored. He never entered this cluttered and treacherous terrain but remained on the black-and-white empirical and moral ground cleared for him by Downing Street; a landscape consonant with his own preference for established facts, clear communication and good will, as opposed to the elusive multiplicities and contingencies his witnesses were actually describing.

### **Mood and Morality: the Discourses of the Inner Self**

While Hutton appeared confident that he could reify complex and dynamic experiences as inert facts, his terms of reference also required him to enter the subjective realm and he approached this with markedly less assurance. There are two discourses of the inner self apparent here: psychology and morality. In pursuing truths immanent to subjectivity, Hutton made an implicit distinction between *psychic* and *moral* interiority. He tried to keep these discursive realms separate but I will suggest



that their entanglement marked a crucial dimension in the tragedy and one that he was unable to diagnose.

It was in addressing the psychic realm that his Lordship remained most doubtful about the possibility of establishing truth.<sup>14</sup> The chain of psychological causes involving Dr Kelly's internal condition was not amenable to the sort of objective reconstruction or judgement the Report was seeking so in this case, the subjective and perspectival nature of knowledge was admitted as an unreliable means for ascribing blame. As a consequence Lord Hutton was able to satisfy himself that 'no one realised or should have realised' the consequences of their acts[15]. Placing more weight on this aspect of the circumstances would have meant entering deeper into the murky depths of the psyche: a prospect surely no more palatable to Hutton than engaging with the contested nature of geopolitical forces. Yet it could not be avoided altogether, since one of the charges against the Government was that in its treatment of Dr Kelly, the Ministry of Defence [MoD] had contributed to his death through the stress caused by its interrogations. In this case Hutton did argue that individuals could not be held responsible since their knowledge necessarily remained interpretive, subjective and imperfect.

The assessment of how a person under stress is reacting can be a somewhat subjective one which depends to some extent on the person making it, and I think that different people may have formed different impressions as to how Dr Kelly was reacting to the strain. [430]

In order to exonerate the MoD and to arrive at his own conclusions regarding the contribution Dr Kelly's 'state of mind' had made to his suicidal act, Hutton turned to the superior knowledge of an expert. Despite his presuppositions regarding the mind-body split, he recognised that in the difficult art of understanding a person's internal state, it was necessary to interpret ambiguous corporeal signs. Who, then, had the expertise to read the body and to infer from it the elusive states of this internal self? No one who interacted with Dr Kelly, but one schooled in the objective science of psychiatry: an Oxford professor who was an 'eminent expert on the subject of suicide'.

Now, other witnesses were certainly summoned here, in particular Dr Kelly's wife and daughter. Their accounts of the growing distress of the man they lived on intimate terms with tell a harrowing tale of 'hurt', 'anxiety', 'humiliation'; of a man 'very, very deeply traumatised', 'very, very tired', 'very exhausted and under a lot of pressure', 'a huge amount of tension'. Dr Kelly was described as being 'lost in his thoughts' and 'very withdrawn', 'subdued' and 'dejected'; 'shocked, broken and humiliated'. On the morning of his death, Mrs Kelly said, 'I just thought he had a broken heart'; he 'had shrunk into himself'; he 'could not talk at all.' Indeed her husband had told her he felt 'totally let down and betrayed' [93; 95; 99;126; 435; 440]. The symptoms of such feelings were apparent on the surfaces and gestures of his body, causing considerable anxiety among his family and friends.

Were none of these signs apparent then to MoD officials during Dr Kelly's public appearances? According to Professor Hawton they were: 'the way he looked, when he looked down and moved in a slightly uncomfortable way'; some of 'the sparkle' had left his eyes [440; 447]. Why was the MoD not then in some degree culpable for pushing him over the edge in its forensic zeal for the truth and in its failure to recognise its psychic costs? I believe the answer lies in Hutton's distrust of psychological judgements unless backed up by scientific expertise. In a crucial

exchange, Professor Hawton was asked: 'If I was a lay person before Dr Kelly's death, would I have had any chance of knowing the possible outcomes?' He replied: 'I think for a lay person then certainly not.' [448] In the case of colleagues, their lay interpretations were thus deemed too subjective a basis for attributing responsibility. Hutton accepted that they took Dr Kelly at his word when he said he was fine; that it was reasonable to infer that a weapons inspector would be well acquainted and able to deal with stress; that observations of his distress before the FAC may well have reflected visceral responses to a hot day, a room without fans and a hurried walk, rather than being signs of inner turmoil resulting from the interrogation. It seemed reasonable, in short, for officials to see Dr Kelly as 'an experienced and robust individual' [430]. In the case of family members, one might surmise that Hutton felt sympathy for the women involved but distrusted their intimate, feminine observations as a basis for truth or official action. Like MoD officials – and like the public who witnessed Dr Kelly's acute anxiety during his televised FAC performance – they were merely laypersons making subjective judgments. Professor Hawton, in contrast, offered a third-person, objective assessment based on psychiatry's causal knowledge of the relationship between 'styles of thinking' and suicide, rather than a subjective impression based on first-person experience [440]. Feelings of hopelessness, of being trapped or isolated in an unbearable situation were the platitudes he offered to a receptive Lord Hutton, who went on to conclude that his expert's opinion as to why Dr Kelly committed suicide was very probably 'correct' [450]. It is difficult to see how in principle the MoD could have been found guilty, given Hutton's epistemological prejudices.

Like Lord Hutton, Professor Hawton subscribed fully to the discourses of the inner self and to the ontology of the subject on which they rely.<sup>15</sup> His concern for the psychic well being of that self is a typically modernist one. What is interesting in this context is that he went on to suggest a close relationship between an emotional and a moral state. Dr Kelly's problems, Hawton surmised, 'really challenged his identity of himself, his self esteem, his self worth, his image of himself'. His symbolic, public death thus preceded and caused his real, private one. 'I think one major factor was the severe loss of self esteem that he had from feeling people had lost trust in him.' He felt 'publicly disgraced' [447; 448; 449]. But it is noticeable that throughout the inquiry, it was precisely loss of public esteem and trust that all the protagonists seemed to fear most. It was where their integrity was apparently under threat that they became most emotionally intemperate. Once accusations of lying or deception were inferred or levelled, facts and meanings became over-determined by moral and emotional investments that would saturate both the circumstances investigated by the inquiry and the Report's reception.

All the main protagonists proclaimed their fidelity to the basic moral principles I summarised earlier; all shared the same view of themselves and of how they wished to be judged, as men of good faith. They were thereby seduced within the moral realm, into complicity with just the sort of black-and-white language that had condemned their more diffuse and ambiguous acts in the objective sphere. For in accepting this moral discourse they opened themselves to the either/or language of a judgement before which agents are fully accountable: innocent or guilty. The positivist's obsession with establishing the facts as true or false is matched here by an intolerance of moral ambiguity. But just as contingency muddles the former, so emotion confuses the latter. What Hutton failed to take into account was the affective complexity and intensity introduced by charges of bad faith.

Moral terminology had already been invoked by Gilligan, although in a somewhat indeterminate way. On three occasions during the 29 May broadcasts he had distinguished between factual error made in good faith - 'an honest mistake' - and 'questionable' claims made (by implication) in bad faith [33; 45]. He initially implied some deception was involved in the Government's presentation of the dossier, although he never explicitly accused the Government of inventing facts nor alleged anything quite as definitive as a lie: 'the issue is about tone and, er and nuance'. [33] In the hands of Alastair Campbell, however, these linguistically-challenged ambiguities became a full-blown assault on the Government's integrity and the BBC was itself now accused of lying. Campbell thus introduced an unambiguous moral language of truth and lies into debates about factual accuracy. By consistently glossing charges of exaggeration ('sexing-up') as accusations of lying, he placed questions of public integrity and trust in the foreground. This raised both the emotional temperature of the circumstances surrounding Dr Kelly's death, and the political stakes for the Government's reputation, to a pitch where the discovery, naming and shaming of Gilligan's source became virtually inevitable. In a political climate where postmodern scepticism and relativism had already been heightened by public perceptions of New Labour as a spinning machine, it was undoubtedly tempting for Downing Street's director of communications to invoke old fashioned values of a morally upright, honest administration disseminating information impartially for the common good and thus being worthy of public trust. Trust was presented as an essential democratic, as well as personal, resource, and its political exponents tried to close down the morally ambiguous middle ground of experience, contingency and confusion in order to show that the Government must be telling the truth since it was not peddling blatant lies. If Hutton did not invent the disfiguration an either/or approach imparts, he colluded with it. Where agents' integrity might have been recognised as situational and hence more equivocal, it was now presented in absolutist terms and subjected to the judgement of truth or lies (an opposition replicated, as I showed earlier, by Hutton's definition of 'sexed-up').

Tony Blair claimed baldly that the 'idea that we doctored such intelligence is completely and totally false'; 'the facts are precisely the facts that we've stated.' [40] Campbell's response was similarly devoid of nuance: the BBC's charges were declared 'untrue', a 'lie', '100% untrue' [263; 264].

... the story that I 'sexed up' the dossier is untrue: the story that I 'put pressure on the intelligence agencies' is untrue: the story that we somehow made more of the 45 minute command and control point than the intelligence agencies thought was suitable is untrue. [45]<sup>16</sup>

The strength of unambiguous moral judgment is emphasised here by the rhetorical device of repetition. Campbell accused the BBC of mounting a 'fundamental attack upon the integrity of the government' and its head of news of using 'weasel words' [62; 267]. This is quite ironic coming from one who is recognised as a master of the presentational arts and thus adept at exploiting the plasticity of language. Unlike Hutton, Campbell understands that language and meaning are ambiguous, slippery processes. Was the use of a binary moral language of innocence and sin not perhaps itself part of a complex discursive strategy?

Campbell's unequivocal use of moral discourse certainly had a significant effect on the psychic domain that Hutton treated as a separate field, since it enflamed passions considerably by saturating language with affective excess. During an

interview on Channel 4 news, Campbell was accused of 'extraordinarily intemperate language' and even Hutton acknowledged that 'there is no doubt that Mr Campbell's complaints were being expressed in exceptionally strong terms which raised very considerably the temperature of the dispute between the Government and the BBC' [267; 290]. One might recall Professor Hawton's explanation for Dr Kelly's suicide here: that it was a response to a loss of self-esteem resulting from a perceived loss of integrity and trust. Was Campbell's anger then a political distraction or personal incontinence, or was it equivalent to Dr Kelly's despair: two extreme affective reactions to an exaggerated perception of a public loss of esteem? Whatever the case, what Hutton failed to understand was that Campbell's intemperance was not just the psychological and linguistic excess of an individual. In raising the temperature of the conflict it affected other protagonists and their responses, too. All now got caught up in an emotional force field that undermined the sort of reasoned, consensual outcome which might otherwise have ensued, over-determining communications with impassioned investments that changed their political significance. While refining managerial processes might have ironed out the scope for future factual mistakes, attacks on agents' integrity incited levels of passion inimical to deliberative or bureaucratic resolution. The BBC noted in its evidence to the inquiry that the Government's complaints 'were distorted by the aggressive tones in which they were made by Mr Campbell and by his attack on the integrity and independence of the BBC.' [289] This explains why rather than apologising, the BBC interpreted its situation in fighting terms: it needed to resist 'caving in' to government 'bullying', 'political muscle' and 'traps'. Surrendering to Campbell's accusations of bias would 'fatally damage the trust' the public had in the Corporation [269; 273]. This mirrored anxieties within the intelligence services lest they too might be perceived as victims of government manipulation. 'The JIC process is of no use if it is one that can be moulded or massaged by political fiat.' [274] Here, too, it was 'trust' that was perceived to be at stake.

Hutton might usefully have considered why public institutions like the BBC or JIC felt so vulnerable to losing public trust and the nature of this precarious resource. But then he would have needed to recognise that the events he was investigating were already embedded within a set of emotional and political structures that he preferred to ignore. New Labour, and Campbell in particular, had a long association in the public mind with spin doctoring; the intense feelings engendered by the war and Campbell's attacks on the BBC's war reporting added to this. It was disingenuous of Hutton to ignore this political and emotional dimension since it accounted for the ferocity of the conflicts surrounding David Kelly as well as being the reason for his inquiry's being set up and followed in such a public fashion.

Once published, Hutton's conclusions also acquired a heightened significance due to their affective and political context. The document's own significance was subject to the complexities of meaning Hutton ignored and he thus lost control of its meaning as soon as it entered the public domain. His remit was not to court popular opinion, but had he been more sensitive to the ineluctably interpretive dimensions of meaning, he might have anticipated the way his judgements would be exaggerated and presented them in a more circumspect way. The BBC, too, might have waited until calmer interpretations of the Report prevailed. Instead Hutton's arid criticisms were immediately translated into the prevailing black-and-white moral discourse, so the Report was read as an unmitigated attack on the BBC's integrity. It reacted by performing an almost identical act to David Kelly's: feeling it had lost public trust and

esteem it committed suicide, albeit in a symbolic sense, by decapitating itself. Within hours its director-general and the chair of its board of governors had accepted responsibility for systemic failures in the Corporation's editorial processes and had resigned. Andrew Gilligan resigned shortly after. None of them accepted the judgements of the Hutton Report as a just or balanced outcome of the inquiry.

## **Conclusion**

Once published, the Hutton Report was immediately subjected to intense criticism. This focused primarily on its conclusions, which were judged by many of those who had followed the inquiry to be one-sided and unbalanced. This was attributed to factors such as Hutton's ignoring contradictions between the testimonies of various officials, his applying different standards to the Government and the BBC, the narrowness of his remit and the presumed predilections of an Establishment figure. Such logical, procedural and political shortcomings were analysed with an unusual intensity and rigour across a variety of media and they explain in part why the Report was judged to be unjust.

Yet Hutton was clearly neither inexperienced or unprofessional, nor politically biased in any crude or conspiratorial way. So these shortcomings warrant further explanation and I have accordingly tried to excavate a further dimension of the Report to this end. Drawing on theoretical traditions of critical analysis, I have focused on Hutton's basic ontological presuppositions, his methodological choices and his discursive limitations. As a consequence I have suggested an additional, more deep-seated level of explanation for the Report's one-sidedness and for the sense of unfairness that marked its reception. This concerns its fundamental orientation towards objectivity, truth, language, meaning and agency. It is this orientation, I have suggested, that structured the way Hutton approached events; the kind of facts he selected as important; the sort of questions he asked; the type of response he found persuasive and the mode of judgement he found appropriate. Despite the appearance of an objective process proceeding logically from premises through evidence to conclusions, the conclusions were already circumscribed by, immanent to, the framework of inquiry.

This more fundamental level of bias has for the most part gone unnoticed and unquestioned, I have argued, because its presuppositions tend to be taken for granted as commonsense assumptions and as normatively desirable within mainstream, and especially official, British society. But I also identified an alternative orientation that was implicitly invoked by many of the protagonists despite finding no recognition within the inquiry. This suggests a rather different account of the circumstances surrounding Dr Kelly's death: one that is more concerned with processes, structures and the unintended consequences of collective action; more aware of the ineluctable ambiguities, contingencies and plurality of meaning. From this perspective responsibilities are more difficult to identify and they appear to have been more widely distributed than Hutton's juridical set-up allowed. Although Hutton's critics have not excavated this alternative ontology explicitly, I suggest that everyday experience does compel the public to harbour an awareness of the instabilities and complexities of empirical, linguistic and moral truths. This allowed many to sympathise with the alternative interpretation of events in a way that went beyond their political loyalties and to recognise that blame was more evenly and inconclusively distributed than the Report suggested. Where Hutton operated with a

narrow sense of agents' accountability that ignored the structural forces which circumscribe choices and confuse responsibility; where he imposed simplistic definitions on key phrases, subjected actors to black-and-white legal or moral judgements, or reduced complex experiences to a one-dimensional series of unambiguous facts, then the Report was simply unconvincing.

The purpose of my analysis has been to identify a discursive conflict, not to rewrite the Hutton Report from a different perspective. Yet given its critical perspective it is germane to end by considering the consequences of taking the phenomenology of meaning into account. Would this have condemned Hutton to an unpalatable alternative, obliging him either to embrace a relativism incapable of grounding any judgement or conclusions, or to claim the identification of a more objective layer of truth, but at the cost of performative contradiction? Fortunately he would have been able to avoid this either/or formula. As I was careful to explain earlier, attention to the phenomenology of meaning does not entail a belief that all truth is relative. Rather, it involves recognition that in collective life, truth emerges in a complex, intersubjective manner over time, where facts and judgements must always be understood in their changing context. This would still have allowed Hutton to draw attention to certain key facts and objective conclusions, such as those regarding the lack of any evidence that foul play was involved (thus quashing speculations that Dr Kelly's death was murder not suicide). But it would also have obliged him to acknowledge different gradations of certainty and zones of undecidability. In this sense Hutton could have arrived at a deeper sense of truth, by acknowledging the way protagonists were often swept along by forces outside their control or understanding, where apparently innocent or simply thoughtless acts acquired significance or had consequences that were unpredictable and unintended. This is indeed the account that emerged within the interstices of the inquiry, where events unfolded more like a tragedy than a crime. Within this dense process Hutton might have identified some privileged points where decisions did, with hindsight, play a critical role in turning events one way rather than another. He could have identified institutional weaknesses and he might even have uncovered particular acts of inefficiency or duplicity. This would have allowed him to identify many small acts of efficacy, even culpability, while acknowledging that these had amalgamated in a set of circumstances nobody foresaw or felt responsible for. The Today Broadcast would still have been important here, but the precise accuracy of Gilligan's reporting would have assumed less significance.

It does not follow from this perspective that public actors are beyond judgement. But if their acts and intentions acquire significance within complex fields of forces, then their accountability has to be assessed within this context. This would have allowed Hutton to avoid the politically enflamed, either/or discourse of guilt and innocence; to refuse the use of a Manichean moral language of truth and lies. It would have encouraged him to focus on institutions and processes as well as individuals; to see that agency was distributed across many relatively thoughtless acts and casual decisions. It might, in fact, have persuaded him to collect and assess his evidence more in the manner the Butler Report attributes to the intelligence agencies and it would perhaps have resulted in something more akin to the Butler Report itself. This has been publicly judged a rather bland document and criticised for identifying collective rather than individual responsibility. But it has not incited the impassioned sense of injustice or political bias that greeted the Hutton Report, while its

institutional and procedural recommendations have been broadly accepted simply as a sensible basis for reform.

### Endnotes

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<sup>1</sup> |An NOP poll published the day after publication showed that 49% of respondents thought the Report was a whitewash, while 56% thought the Government should have received some blame. Evening Standard 29/1/04, p.4.

<sup>2</sup> The Diplock courts were set up in Northern Ireland during the early 1970s as single-judge trials without juries, to try alleged terrorist offences. Their acquittal rate was significantly lower than for cases tried in the Crown Courts.

<sup>3</sup> Downing Street official spokesman, reported in The Independent, 31/1/04 , p.2.

<sup>4</sup> Communitarians, republicans, feminists, Marxists and poststructuralists have all offered versions of such criticism. In the social sciences, they often fall under the 'agency-structure' debate. See especially C. Wight, 'The Agency-Structure Problem and Institutional Racism'; Political Studies 51.4 (2003), pp. 706-721. Wright's analysis of the inability of the Scarman and Macpherson Reports to appreciate the dynamics of institutional racism, because of their methodological individualism and their consequent ignorance of structural elements, has affinity with some aspects of my criticism of the Hutton Report.

<sup>5</sup> Lord Hutton, Report of the Inquiry into the Circumstances Surrounding the Death of Dr David Kelly C.M.G (London: House of Commons, 28 January 2004) HC 247. References to the Report are included in the text, where numbers in square brackets refer to sections rather than pages.

<sup>6</sup> Although this does not of course rule out a political motive in setting up the inquiry in this form, presided over by a judge and one chosen by the Prime Minister.

<sup>7</sup> Chapters 2-5 of the Report lay out the facts on the basis of witnesses' evidence to the inquiry, while a more detailed cross-examination of key witnesses, interspersed with Hutton's own conclusions, comprises chapters 6-12 and corresponds to the inquiry's second stage.

<sup>8</sup> C. Gearty, 'A Misreading of the Law'; London Review of Books; (19 February 2004), p.5.

<sup>9</sup> From this perspective it is perhaps relevant that Lord Hutton's experience of the Diplock Courts was of trials without juries to deliberate verdicts.

<sup>10</sup> Gearty argues that the intelligence community 'were drawn into the Campbell world of spinnery and sleight-of-hand, where even they... couldn't cope.' 'Misreading', p.7.

<sup>11</sup> Review of Intelligence on Weapons of Mass Destruction (London: London Stationary Office, 14 July 2004) HC 898.

<sup>12</sup> What we learn from the Butler Report is that intelligence collection and analysis tended to be institutionally and hierarchically separate from its assessment (the latter by the DIS working for the MOD).

<sup>13</sup> The term 'group think' was first formulated by the American psychologist Irving Janis in the context of the Bay of Pigs, where it was used to describe a form of collective decision-making characterised by an uncritical acceptance of prevailing perspectives. The term is also used by Butler's American counterparts in the Senate intelligence committee's report on the failings of US intelligence.

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<sup>14</sup> It is not therefore surprising that it is in precisely this discourse of psychology that Hutton took refuge when he alluded to a phenomenon that eluded his empiricist approach: namely, in the reference to 'subconscious forces' possibly infecting the JIC with the Prime Minister's desire [228].

<sup>15</sup> Foucault, History of Sexuality vol.1 (New York: Vintage Books, 1990), argues that psychological discourses actually help construct the inner self and psychically normal subject by encouraging its discursive articulation and confession. This poststructuralist argument that discursive power constructs subjectivity is opposed to modern philosophies such as object-relations theory, ego psychology or existentialism, which are concerned with the health – integrity, coherent identity and so on – of the subject or inner self.

<sup>16</sup> Campbell gave a press conference the day the Report was published. One passage was especially widely quoted in the media. 'What the Report shows very clearly is this – the Prime Minister told the truth, the Government told the truth, I told the truth. The BBC, from the chairman and director-general down, did not. Today, the stain on the integrity of the Prime Minister and the Government has been removed.'